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STUDIES



**JOINT SUBMISSION**

**SHADOW REPORT**

**TO THE COMMITTEE ON THE ELIMINATION**

**OF ALL FORMS OF DISCRIMINATION AGAINST WOMEN**

**FOR THE**

**CZECH REPUBLIC**

**UNDER ARTICLE 18**

**OF THE CONVENTION ON THE ELIMINATION**

**OF ALL FORMS OF DISCRIMINATION AGAINST WOMEN**

**FOR ITS CONSIDERATION**

**AT THE 36<sup>th</sup> SESSION**

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<b>European Roma Rights Centre</b>	<b>League of Human Rights</b>	<b>Gender Studies</b>
H-1386 Budapest 62	Bratislavská 31	Gorazdova 20
PO Box 906/93	602 00 Brno	120 00 Praha 2
Hungary	The Czech Republic	The Czech Republic
<b>Phone:</b> +36 1 4132200	Phone:+420 224 816 765	tel./fax: 224 915 666
<b>Fax:</b> +36 1 4132201	Fax: +420 224 961 092	
CEDAW contact:	CEDAW contact:	CEDAW contact:
Ostalinda Maya	Gwendolyn Albert	Alena Králíková
ostalinda@errc.org	galbert@llp.cz	alena.kralikova@genderstudies.cz
<a href="http://www.errc.org">http://www.errc.org</a>	<a href="http://www.llp.cz">http://www.llp.cz</a>	<a href="http://genderstudies.cz/">http://genderstudies.cz/</a>

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# Submitting Organisations

The **European Roma Rights Centre (ERRC)** is an international public interest law organisation engaging in a range of activities aimed at combating anti-Romani racism and human rights abuse of Roma, in particular strategic litigation, international advocacy, research and policy development, and training of Romani activists. Information about the European Roma Rights Centre is available at <http://www.errc.org>.

**Gender Studies, o.p.s. (GS)** is a non-governmental non-profit organisation performing the function of an information, consultation, and education centre on relations between women and men and their positions in society. The goal of the organisation is to gather, analyze, work with and disseminate further information related to gender-relevant issues. Via specific projects, GS actively influences change concerning equal opportunities in different areas such as institutional mechanisms, labour market, women's political participation, information technologies, etc. GS also runs a library offering a variety of publications and materials related to feminism, gender studies, women's and men's rights.

<http://www.en.genderstudies.cz/>

The **League of Human Rights (League)** is a non-governmental organisation providing free legal aid to victims of gross human rights violations, in particular to members of the Roma minority, victims of domestic violence, and children. Its mission is to create a future in which the Czech state actively protects the human rights of its citizenry and respects both the spirit and the letter of the international human rights conventions to which it is signatory. More at <http://www.llp.cz>

The three organisations named above have contributed to this shadow report according to their expertise, as follows:

- European Roma Rights Centre: anti-discrimination law, coercive sterilisation of Romani women, discrimination against Romani women in sectoral fields including education, employment, housing, health care and social services, including in particular racial segregation issues in the field of education;
- Gender Studies: anti-discrimination law, stereotypes, political participation, education, the labour market, childcare.
- League of Human Rights: domestic violence, racial segregation of Romani children in education, coercive sterilisation of Romani women.

Organisations have provided the material herein according to their expertise. In some of the sections below, more than one organisation has provided information.

# Executive Summary

The European Roma Rights Centre (ERRC), Gender Studies, and the League of Human Rights (hereafter the "partners") jointly submit this shadow report to the United Nations Committee on the Elimination of Discrimination Against Women (hereafter the „Committee“) commenting on the Third Periodic Report of the Czech Republic submitted under Article 18 of the United Nations Convention on the Elimination of All Forms of Discrimination against Women (hereafter the „Convention“).

The present shadow report addresses a number of categories of serious human rights abuses of women, including extreme forms of abuse such as domestic violence and coercive sterilisation, as well as very problematic law, policy, and practice in a number of areas of relevance to the Convention. This submission is not comprehensive. Its sole purpose is to present several areas of problematic law, practice and policy arising in Convention areas. The present submission is structured according to relevant Convention articles.

Czech authorities have recently recognized – but by no means yet addressed adequately – the problem of **coercive sterilisation of Romani women**. In December 2005 the Public Defender of Rights (hereafter the Ombudsman) issued a report concluding that, according to the Ombudsman's investigation, sterilisation without free and informed consent was practiced during the communist era as well as after 1989. The most recent documented case is from 2001. **The overwhelming majority of the victims are Romani women**. The Ombudsman recommended several legislative, methodological, and reparations measures. Despite the Ombudsman's recommendations, few victims have yet received compensation, and without government action, most will be precluded from access to justice. No persons have yet been prosecuted by Czech authorities in connection with these extreme harms. Responses by the Czech Government to the questions of the CEDAW Committee on these matters are inadequate in the extreme.

Regarding the problem of **domestic violence**, significant progress has been achieved especially in regard to the legal protection of victims. However, the effectiveness of legislation is compromised by insufficient training of police, medical professionals, and staff of child protection agencies; lack of an interdisciplinary approach to the problem at local level; the absence of therapeutic programs for perpetrators as well as for victims; a complete lack of services to victims in some regions and an overall lack of comprehensive services nationwide; absence of an independent mechanism for investigating allegations of crimes committed by police officers or ex-police officers; the difficult financial situation of most victims; and lack of protection against "stalking".

**Legal protection against discrimination remains insufficient because, despite efforts and pressure by a number of agencies including the European Union, the Czech Parliament has to date failed to adopt a comprehensive anti-discrimination law.**

Women suffer direct and indirect forms of discrimination on the labour market, and Romani women experience particularly extreme levels of discrimination, often compounded by intense levels of anti-Romani antipathy in the Czech Republic. Few if any cases of gender discrimination have been addressed by any Czech

authority and only a handful of cases of discrimination against Romani women have been positively resolved. Legal possibilities to introduce positive obligations to hire women – and in particular minority women – have not yet been used. There is deep public opposition to positive action measures for Romani women, and there are no known examples of positive action hiring of Romani women in mainstream employment in the Czech Republic.

Government policy to address discrimination against women, and in particular against women from marginalised groups, has been to date ineffective where existing, and is in many areas completely non-existent. The **ineffectiveness of governmental policies** is influenced by government failure to prioritise gender equality to the level merited. In addition, there is a general lack of awareness among the public and a general disregard for gender equality among the political representatives. Support for gender equality by the government is neither long-term nor structured. All activities in this area are almost entirely realised by NGOs, activities that should be either developed by or at least supported by the state. At the regional level there are no activities defined so as to structurally consider gender equality issues. The government's actions against gender stereotypes are insufficient and insignificant. Multiple or compound discrimination against Romani women is not the subject of any effective government policy, and action in this area is extremely weak.

**The participation of women in politics remains low.** A law aiming to improve the representation of women in a number of representative bodies (including Czech Parliament and the European Parliament) has not yet entered into force, and in any case covers only a limited number of bodies. The Czech Republic has one of the lowest rates of participation of women in public life in the European Union.

The government has not adopted any actions to increase the **low participation of women amongst those studying the sciences and technology. Education reform has been cosmetic and formal, with little impact of desegregating Czech education so that Romani children might have equal access to education.**

**Child support is very difficult to access** in cases in which an authority has ordered child support payments be made by a parent not present in the household and the parent does not fulfill his/her obligations to pay alimony. This has a serious adverse impact on the financial situation of single mothers. A bill proposing the state cover child support for parents not fulfilling their obligations and then recover the amounts due from the parent in question (instead of leaving all actions in such matters up to the single parent caring for children) has been rejected.

Finally, **the Czech Republic remains the country with the highest rate of children under 3 being placed into state care in the EU.**

## The Czech Legal and Policy Framework with Respect to Equal Rights of Women and Men

The Czechoslovak Socialist Republic signed the United Nations Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) in Copenhagen on 17 July 1980. The Czech Republic came into existence on 1 January 1993 after the division of the Czech and Slovak Federal Republic into two independent states. The Czech Republic became a member of the UN on 19th January 1993, and took over all the obligations relating to human rights protection from the former Czechoslovakia, including CEDAW. The Czech Republic submitted an extensive Initial Report on the Convention covering the period of 1993-1994 to the Committee on the Elimination of Discrimination against Women in 1994 (hereinafter referred to as the "Committee"). The second and the third periodical reports contained descriptions of the important changes achieved since the development of the Initial Report (the reports cover the period until 2002), and list the approved legal and other measures documenting progress achieved in the elimination of discrimination against women, important changes in the status of women, measures aimed at eliminating the remaining obstacles to women's integration into political, social, economic and cultural life, and problems emphasized by the Committee which the Czech Republic has not yet been able to deal with.

The Government redoubled its efforts to fulfil its commitments to human rights protection and promotion after the June 1998 elections. In September 1998, a Commissioner of the Government of the Czech Republic for Human Rights was appointed. In December 1998, the Government set up the Council of the Czech Republic for Human Rights as an advisory and co-ordination body of the Government for the issues of the protection of human rights and fundamental freedoms of persons within the jurisdiction of the Czech Republic. The main task of the Council is to monitor the fulfilment of the Czech Republic's international commitments and the implementation of obligations arising from international conventions and treaties. Regarding the international obligations assumed by the Czech Republic, the Council has formed advisory bodies (expert sections to monitor the observance of ratified treaties in particular areas of human rights and freedoms). According to the Council statute, one of the eight sections is dedicated to equal opportunities for men and women. Since 1 January 2002, this section is called CEDAW.

Since 2001, the Government Council for Equal Opportunities for Women and Men has existed. Initially, the Minister of Labour and Social Affairs headed it, and then the role was taken over by an MP. The Council's members include not only ministers, but also representatives of academia and NGOs. It performs the role of an advisory body in equal opportunities issues; it can only develop recommendations, not decisions. Since 1998, the role of coordinating gender equality policies has been prescribed to the Ministry of Labour and Social Affairs. Since 1 January 2002, at least half-time positions in the gender focal points have been

established at each ministry to develop and monitor gender equality issues and gender mainstreaming within the ministry and its scope of responsibility.

The principle of the equal rights of men and women is enshrined in Articles 3 and 10 of the Czech Constitution: Article 3 states that “Part of the constitutional order of the Czech Republic is the Charter of Fundamental Rights and Freedoms” and Article 10 states that “Ratified and promulgated international accords on human rights and fundamental freedoms to which the Czech Republic has committed itself are immediately binding and are superior to law.”

A new Labour Code entered into force on 1 January 2001, bringing a major change to the field of equal opportunities, in particular with regard to the fundamental principle of equal treatment for men and women in access to employment, vocational training and promotions, working conditions and the prohibition of any kind of discrimination in employment relations on the grounds of sex. The fact that this principle is included in the general part of the Labour Code shows its general relevance in the entire Czech labour legislation. In 2004, the Code was amended to include definitions of direct and indirect discrimination, mobbing and sexual harassment; similarly, the Employment Code was also amended with sections related to antidiscrimination within employment and prior to employment (i.e. discrimination is also forbidden within interview process).

There is a dearth of demographic statistics on minorities in the Czech Republic and on the Romani minority in particular, which is nevertheless 1) sizable, 2) a more visible as a minority than, for example, Slovaks or Ukrainians and 3) a minority which has been subjected to very high levels of focussed antipathy, resulting among other things in high levels of racist violence and discrimination, as well as racially targeted coercive sterilisation, as detailed below.

Certain categories of women are under extreme threat of discrimination in the Czech Republic, in nearly all sectoral fields. As concerns employment for example, ERRC research undertaken in 2005 jointly with the Association of Roma in Moravia indicates that: Roma are 8 times more likely to be unemployed than non-Roma; 61% of working age Roma are out of work and of those 35% are long term unemployed; 78% of working age Roma have experienced continuous unemployment of one year or more; and a shocking 1 in 3 have suffered continuous unemployment of five years or more. In the field of education, according to the most recent available data, over half of all Romani children in the Czech Republic are in schools or classes for the mentally disabled. A dramatic rise in recent years in forced evictions from housing falls very disproportionately against Roma, and there are widespread reports of racial discrimination in access to housing. Other areas where racial discrimination is regularly reported include procedures for taking children into state care, and nearly all aspects of criminal justice. The gender aspects of the foregoing have not been the subject of adequate study, but there is no indication that Romani women are exempt from these forces, and there are many indications of multiple or compound discrimination, magnifying the effects of racial or gender discrimination taken singly. Significantly, there is a near complete vacuum of government policy to tackle the particular issues facing Romani women.

# 1. Coercive Sterilisation of Romani Women: Articles 10, 12 and 16 of the Convention

The CEDAW Committee has sought and received information from the Czech government on the matter of coercive sterilisation.<sup>23</sup> The response of the Czech government to the CEDAW Committee on this matter apparently depends entirely on information provided by the Czech Ministry of Health and is therefore at once both misleading and incomplete.

The sections below:

- (i) Review the (as yet unsuccessful) efforts by a number of parties, including Czech and international civil society organisations and certain agencies of the Czech government, to secure justice for victims of coercive sterilisation and amendments to law and policy to ensure that this practise is once and for all rendered impossible in the Czech Republic;
- (ii) Comment in detail on the material provided to the CEDAW Committee by the Czech government on this matter;
- (iii) Bring recommendations as to action required now to secure justice in this area, as well as to ensure that law and policy is amended to ensure that these practises are once and for all rendered impossible in the Czech Republic.

## 1.1 Background information

### 1.1.1.

From the 1970s until 1990, the Czechoslovak government sterilised Romani women programmatically, as part of policies aimed at reducing the “high, unhealthy” birth rate of Romani women. This policy was described by the Czechoslovak dissident initiative Charter 77, and documented extensively in the late 1980s by dissidents Zbyněk Andrš and Ruben Pellar. Helsinki Watch (now Human Rights Watch) addressed the issue as part of a comprehensive report published in 1992 on the situation of Roma in Czechoslovakia, concluding that the practice had ended in mid-1990. A number of cases of coercive sterilisations taking place up to 1990 in the former Czechoslovakia have also been recently documented by the ERRC. Criminal complaints filed with Czech and Slovak prosecutors on behalf of sterilised Romani women in each republic in 1992. The Czech prosecutor at that time evidently concluded that there had been wrongdoing, but no persons were ever criminally prosecuted and no victims received compensation or even public recognition of the harms

<sup>23</sup> See (i) Committee on the Elimination of Discrimination against Women, Pre-session working group, Thirty-sixth session, 7-25 August 2006, “List of issues and questions with regard to the consideration of periodic reports”, Czech Republic, (CEDAW/C/CZE/3), 22 February 2006, pt. 27, and (ii) Committee on the Elimination of Discrimination against Women, Pre-session working group for the thirty-sixth session, 7-25 August 2006, “Responses to the list of issues and questions for consideration of the third periodic report”, Czech Republic, pt. 27.

they had suffered.<sup>24</sup> No Romani woman coercively sterilised by the Czechoslovak authorities has ever received justice for the harms to which they were systematically subjected under Communism.

### 1.1.2.

During 2003 and 2004, the ERRC and partner organizations in the Czech Republic undertook a number of field missions to the Czech Republic to determine whether practices of coercive sterilisation have continued after 1990, and if they were ongoing to the present. The conclusions of this research indicated that there was significant cause for concern that until as recently as 2001 and possibly as recently as 2004, Romani women in the Czech Republic have been subjected to coercive sterilisations, and that Romani women are at risk in the Czech Republic of being subjected to sterilisation absent fully informed consent.

### 1.1.3.

In cases in which the matter at issue is as serious and has such potentially irreversible consequences as sterilisation, the condition of fully informed consent is met only when the patient has been adequately and appropriately informed of the procedure and its alternatives as well as the consequences and risks associated with it, and when the patient has subsequently consented to the procedure of her own free will beyond any acts of coercion or misinformation. In addition, all relevant information must be provided sufficiently in advance of the procedure such that individuals have time to consider all implications in full, and such that ample opportunity is provided for the individual to change her mind.<sup>25</sup>

### 1.1.4.

Sterilisations lacking fully informed consent implicate a number of the Convention's provisions, including **Article 10(h)**, which provides that State parties have an obligation to take "all appropriate measures" to ensure "the health and well-being of families, including information and advice on family planning". These practices also call seriously into question a state's compliance with **Article 16** of the Convention which requires State parties to "take all appropriate measures... in all matters relating to marriage and family relations". The Convention specifically requires that State parties ensure men and women "the same rights to decide freely and responsibly on the number and spacing

of their children and to have access to the information, education and means to enable them to exercise these rights." **Article 12** of the CEDAW Convention says "State parties shall ensure to women appropriate services in connection with pregnancy, confinement, and the post-natal period."

### 1.1.5.

CEDAW **General Recommendation 21** stresses the importance of access to information, specifically in the context of sterilisation.<sup>26</sup> Under **General Recommendation 24** the CEDAW Committee urges State parties to "not permit forms of coercion, such as non-consensual sterilization... that violate women's rights to informed consent and dignity". Finally **General Recommendation 19** states that "Compulsory sterilization adversely affects women's physical and mental health...."

### 1.1.6.

During the course of ERRC research in 2003 and 2004, researchers found that Romani women have indeed been coercively sterilised in recent years in the Czech Republic. The cases documented include:

- Cases in which consent had not been provided at all, in either oral or written form, prior to the operation;
- Cases in which consent was secured during delivery or shortly before delivery, during advanced stages of labor, i.e., in circumstances in which the mother is in great pain and/or under intense stress;
- Cases in which consent appears to have been provided (i) based on a mistaken understanding of terminology used, (ii) after the provision of apparently manipulative information and/or (iii) absent explanations of consequences and/or possible side effects of sterilisation, or adequate information on alternative methods of contraception;
- Cases in which officials put pressure on Romani women to undergo sterilisation, including through the use of financial incentives or threats to withhold social benefits;

### 1.1.7.

In a number of the cases documented in 2003 and 2004, explicit racial motive appeared to have played a role during doctor-patient consultations.<sup>27</sup>

### 1.1.8.

In June 2004, the ERRC met with the Public Defender of Rights (Ombudsman) and his staff to discuss the investigation of the cases. During the summer months of 2004, the ERRC and partner organizations IQ Roma Service (Brno), League of Human Rights (Prague and Brno), and Life Together (Ostrava) gathered evidence for complaints to the Ombudsman. The first ten of these were filed in September 2004.

<sup>24</sup> See Public Defender of Rights, "Final Statement of the Public Defender of Rights in the Matter of Sterilisations Performed in Contravention of the Law and Proposed Remedial Measures", 23 December 2005, pp. 28-35 (Hereinafter "Ombudsman Report"; page references refer to the official English-language translation).

<sup>25</sup> The World Health Organisation in its publication on Considerations for formulating reproductive health laws states that "one of the key principles in the provision of reproductive health services is free and informed decision-making. This is expressed as 'informed consent' although informed decision-making or informed choice would be better terms. The legal duty is to present information that is material to the choice that the patient has to make, in a form that the patient can understand and recall. The purpose is to equip the patient to exercise independent choice."

The European Convention on Human Rights and Biomedicine (ECHR) states in Article 5 that "An intervention in the health field may only be carried out after the person has given free and informed consent to it. This person shall beforehand be given appropriate information as to the purpose and nature of the intervention as well as on its consequences and risks. The person concerned may freely withdraw consent at any time." The explanatory report to this Convention states that "this information must be sufficiently clear and suitably worded for the person who is to undergo the intervention. The person must be put in a position, through the use of terms he or she can understand, to weigh up the necessity or usefulness of the aim and methods of the intervention against its risks and the discomfort or pain it will cause".

<sup>26</sup> In order to make an informed decision about safe and reliable contraceptive measures, women must have information about contraceptive measures and their use, and guaranteed access to sex education and family planning services, as provided in article 10 (h) of the Convention: "Women are entitled to decide on the number and spacing of their children".

<sup>27</sup> The fact that nearly all of the victims coming forward to challenge these practices – and the related indications that the overwhelming majority of the victims are Romani women – was not yet fully evident at that time.

### 1.1.9.

Although it was not intended to publicise these complaints, information leaked, and beginning in mid-September 2004, Czech media gave extensive coverage to the matter. With a few exceptions, this coverage was cautiously sympathetic to the victims. A number of women gave interviews to television and the press, with their faces blacked out and names concealed. As a result of this media attention, a number of other victims came forward and filed complaints on their own with the Ombudsman.

### 1.1.10.

Eighty-seven victims of coercive sterilisation – all but one of them women and the overwhelming majority of them Romani – submitted complaints to the Ombudsman in the period to September 2005. Many complaints came from Moravia – especially northern Moravia – although the overall geographic dispersion of the complaints, which are from throughout the Czech Republic, confirmed researchers' initial hypothesis that coercive sterilisation is a systemic issue in the Czech health care and Czech social assistance systems.

### 1.1.11.

In early 2005, approximately 25 Romani women coercively sterilised by Czech medical officials established a victim advocacy group called the Group of Women Harmed by Sterilisation to press authorities for justice. This development – in which the victims themselves have organised, come out in public, and taken control of the process of pressing for change – has been among the most important dimensions of the action.

## 1.2. The Investigation and Report of the Ombudsman

### 1.2.1.

Throughout 2005, on the basis of these complaints, the Ombudsman opened investigation into these practices. For a number of reasons, as noted in the material provided by the Czech Government to the CEDAW Committee, the Ombudsman sought and reached an agreement with the Ministry of Health whereby the Ministry would establish an expert review panel which would, on the basis of a request by the Ombudsman, seek the relevant medical files from the hospitals concerned, and answer questions the Ombudsman provided on any given case. The expert review panel was tasked with examining not only whether the interventions had been performed according to good medical practice, but also whether the legal qualifications for performing them had been satisfied.

### 1.2.2.

Because of the long time taken by the expert review panel's inquiry, the Ombudsman decided to conclude his inquiry after reviewing 50 cases. The Ombudsman therefore drew up a report on these cases under section 18 par. 1 of the Ombudsman Act, reproaching the Ministry, for an inadequate inquiry as well as faulty, or even lacking, conclusions from findings of facts.

### 1.2.3.

The Ombudsman's Report published in December 2005 concludes that "The Public Defender of Rights believes that the problem of sexual sterilisation carried out in the Czech Republic, either with improper motivation or illegally, exists, and Czech society has to come to terms with this."

### 1.2.4.

The Ombudsman's Report concludes that in the cases under examination, shortcomings are identifiable in the legal quality of the sterilised persons' consent. The report finds that in the vast majority of reviewed cases, legal and procedural safeguards were not observed. In discussions with the Ombudsman's staff, it has been noted that while under Communism in the main policy and law was followed (meaning that Czech social workers dutifully implemented policy encouraging the sterilisation of Romani women), following the official end of policies fostering a climate conducive to coercive sterilisation in 1991, a number of doctors have apparently acted fully outside the law to continue the practice. At a press conference launching the Ombudsman's Report, Deputy Ombudsman Anna Šabatová spoke of this phenomenon as "fully deformed praxis in the Czech medical community".

### 1.2.5.

Approximately 1/3 of the Ombudsman's Report (pages 25-59) concerns "Sterilisation and the Romani Community" and reaches the conclusion of racial targeting. Case summaries included in the report highlight events in which, for example, the medical files reveal that social workers and doctors recommended caesarean section births in order to manufacture "indicators" through which sterilisation would appear legitimate and necessary.

### 1.2.6.

The text of the report also includes detailed summaries of Czechoslovak state policies toward Roma in the 1970s and 1980s, in which social workers were enlisted in the task of controlling the Romani birth-rate – regarded as too high by policy-makers – and creating a culture of invasive control over Romani families which endures to today. The report also includes a separate section on the history of eugenics in Czechoslovakia, which the report's authors evidently regard as key for the policies and practices detailed in the report.

### 1.2.7.

Finally, the report notes that during 2005, the Ombudsman filed a number of criminal complaints in the cases at issue in his investigation (see below).

### 1.2.8.

However, despite examining extensive evidence that forces conspiring to compel Romani women to forfeit their ability to give birth through extreme, invasive, coercive sterilisation practices were in fact infected to the core with racially motivated considerations, the Ombudsman stopped short of concluding that these issues were racially discriminatory, apparently because this conclusion remains simply too controversial, as Czech public opinion is as yet unable to acknowledge that racism against Roma is a vivid reality in the Czech Republic today.

### 1.2.9.

The Ombudsman also dismisses the possibility that the crime of genocide may have been perpetrated, although certain facts in certain areas give rise to concerns that that conclusion may be premature. For example, in the housing estate of Chanov, just outside the northern Czech city of Most, a targeted campaign involving both offers of financial incentive and threats to withhold social welfare or take children into state care was carried out throughout the 1980s and resulted in the sterilisation of tens if not hundreds of Romani woman. The person named repeatedly by surviving victims of these practices as the leader of the campaign to sterilise the Romani women of Chanov is a social worker named “Mrs. Machacová”, who some believe may have since died. However, the partners know of no official investigation carried out into the actions of social workers and/or doctors in Chanov.

### 1.2.10.

Three areas of recommendations are brought by the Ombudsman in his report:

- 1) Changes to Czech domestic law to better anchor the principle of informed consent in these areas;
- 2) Supplementary measures to ensure a change of culture with regard to informed consent in the medical community, as well as among users;
- 3) A simplified procedure for compensation to victims, where social workers have been involved in implementing coercive sterilisation policy.

### 1.2.11.

For use by the Committee, the submitting organisations append herewith the official English-language translation of the Czech Ombudsman’s report as an appendix to this submission.

### 1.2.12.

The European Roma Rights Centre and the League of Human Rights, both partners to this submission, have welcomed the Ombudsman’s report as the most significant development in challenging these harms in any country in the post-Communist world. Notwithstanding the fact that both organisations believe that (i) a number of issues have been arbitrarily excluded from the report; and that (ii) certain issues are not characterised entirely accurately (particularly the role of racism in influencing and bringing about this systemic practice), (iii) it has been recognised that, given the particular political circumstances currently prevailing in the Czech Republic, the report as it exists is a very strong document, with a number of very important conclusions, and a wealth of new information on these issues.

### 1.2.13.

It is therefore of very serious concern that (i) in the six months intervening since the publication of the report, no high-level authority in the Czech Republic has made any public pronouncement on the matter, despite efforts by the Ombudsman’s office and others to seek statements on the findings of the report by Parliament and/or the Prime Minister’s office and/or other agencies of government; and (ii) there is no indication

that any Czech governmental authority intends to act soon on these or any other recommendations existing on this issue.<sup>28</sup>

## 1.3. Court Proceedings in Coercive Sterilisation Cases

### 1.3.1.

The Ombudsman’s report followed the decision of the District Court in Ostrava on 11 November 2005 to find violations of law concerning the coercive sterilisation of Ms. Helena Ferenčíková by Czech medical practitioners in 2001.

### 1.3.2.

On 10 October 2001, Ms. Ferenčíková gave birth in the Vitkovická hospital in the city of Ostrava to her second child, a son named Jan. The child was born at 4:45 AM, by caesarean section birth. Ms. Ferenčíková’s first child had also been born via caesarean section.

### 1.3.3.

At the time of her second birth, Ms. Ferenčíková was also sterilised by tubal ligation. Although her files indicate that “the patient requests to be sterilised”, procedures set out under Czech and international law to ensure that, for the extremely invasive and in most cases irreversible sterilisation procedure, consent must meet the standard of full and informed, were not followed by doctors at the Vitkovicka hospital. Although it had been foreseen well in advance of labour that she would give birth by caesarean section, Ms. Ferenčíková’s “consent” to the sterilisation was apparently secured by doctors several minutes before the operation, and when she was already deep in labour. As a result, Ms. Ferenčíková emerged from her second birth traumatised and irrevocably harmed by the doctors to whom she had entrusted herself for care.

### 1.3.4.

Ruling on 11 November 2005, the Ostrava court recognised that Ms. Ferenčíková’s sterilisation was coercive and therefore illegal, and ordered the Vitkovicka hospital to apologise in writing because the act “seriously encroached into your most intimate sphere, and caused you durable physical and psychological harms”.

### 1.3.5.

Nevertheless the Court rejected Ms. Ferenčíková’s claim for financial compensation with the reasoning that the statutory limitation for the claim has already expired. Ms. Ferenčíková’s legal representative Mgr. Michaela Tomisová, (provided to Ms. Ferenčíková by the European Roma Rights Centre and the League of Human Rights), filed an appeal against this point of the decision. The appeal is currently pending before the High Court in Olomouc.

<sup>28</sup> A draft recommendation prepared on the matter by the Czech government’s advisory Subcommittee on Biomedical Ethics and Human Rights was reviewed by the government’s advisory Human Rights Council on 19 May 2006 and sent back to the former body for revision after strenuous opposition by representatives of several government Ministries, including the Ministry of Health.



### 1.3.6.

At the time it was believed that this was the first time a court had ever ruled favourably on these issues, but it later transpired that in the year 2000, a court in the town of Plzeň had awarded 100 000 CZK (approximately 2,500 Euro) in damages to a woman sterilised there in 1998. She had repeatedly explicitly refused to be sterilised, but doctors had performed the operation anyway.

### 1.3.7.

Despite two favourable rulings by Czech courts, it is important to recognise that in most of the cases of which the ERRC and partners are aware in which women have been subjected to the extreme harm of coercive sterilisation, it is very unlikely that court proceedings can even be initiated, let alone won, unless an administrative mechanism to provide compensation to victims is established, one which would provide to victims some level of presumption of harm. Otherwise many (if not most) of the victims will have no access to due compensation for one or more of the following reasons: (1) statutory limitation for the claim having already expired, (2) no money to risk a civil claim, (3) records destroyed by the hospital, (4) rigidity of the courts in applying standards of proof in civil claims.

## 1.4. Criminal Investigation

### 1.4.1.

On 11 March 2005, the Ombudsman sent eight sterilisation cases which had also been reviewed by the Czech Health Ministry to the Supreme Public Prosecutor, along with the information that the facts of the cases indicate that crimes may have been committed. In three of these cases, the expert review panel of the Ministry of Health had also proposed sending the materials for to the prosecutor.<sup>29</sup> Since March, other cases were subsequently sent to the Supreme Public Prosecutor and then to the relevant Czech Police departments during the course of 2005. Czech criminal law includes provisions banning among other things bodily harm, and therefore in principle should provide one mode through which victims might seek and secure justice.

### 1.4.2.

After one year of investigation, the approach of the criminal investigative bodies to these complaints gives rise to serious concerns that these procedures will not ultimately prove effective as a remedy for these extreme abuses, despite clear indications of breaches of criminal law in the cases concerned. Police have interrogated the witnesses, the sterilised women themselves, and their husbands/partners, as well as the health care workers involved, and they have also commissioned expert evaluations, and then, using unconvincing arguments, they have shelved most of the cases. As of the date of this submission, five of the eight cases originally filed have been dismissed by the prosecutor.

### 1.4.3.

A number of aspects of the criminal proceedings give rise to serious concerns. The views of the expert institution relied upon during the investigation for example held that a correctly indicated and correctly performed medical procedure could not constitute a crime. This opinion is open to dispute, since if the procedure is performed without the consent of the patient, then it would breach law, and evaluation of the act as to its criminal character would then depend on further evaluation of the act. Moreover, in sterilisations performed without consent, a woman's health is seriously damaged and her reproductive ability is impaired – usually irrevocably – for the rest of her life. The public prosecutor charged with enforcing the legality of some of these preliminary proceedings did not concern himself with the claims of the sterilised women that, even though they had technically signed sterilisation requests, they had signed them under such circumstances that the sterilisations performed could not be considered legal because they did not satisfy the requirement of informed consent.

### 1.4.4.

The manner in which the evidence has been evaluated during these preliminary proceedings also gives rise to fundamental concerns. In one case, the criminal investigation appears to have been closed on the grounds that a handwritten note on the reverse side of the medical protocol made 50 minutes prior to the intervention reading “patient requests sterilisation” is to be deemed as proper consent to the sterilisation. The expert also bizarrely characterised the victims as “irresponsible” if they had not agreed to sterilisation voluntarily, indicating possible bias on the part of the expert. The conduct of the doctors, however, was characterised by the expert as correct.

### 1.4.5.

Each body active in the criminal proceedings has the right to evaluate the evidence during the individual phases of the proceedings, within limits. This particularly applies to the police. In the cases of women sterilised without their informed consent, the police performed a legal evaluation of the merits of the case, which according to the victims' legal representative is a matter for an independent court only to perform. It is therefore no surprise that the police, lacking the requisite legal education and expertise, evaluated the question of the (non)-existence of free and informed consent in a matter diametrically opposed to that of the Regional Court in Ostrava in the subsequent civil complaint proceedings (see above), and dismissed the case. The police body also did not concern itself in depth with the racial motivation for these acts. The partners are now considering a Constitutional complaint in the name of those women whose cases were dismissed.

### 1.4.6

As a result of the foregoing, Czech criminal law has not yet proved a viable mode for providing redress for Romani victims of coercive sterilisation.

<sup>29</sup> See Section 3.2. of the Ombudsman's Report.

## 1.5. Romani Women Coercively Sterilised in Slovakia

### 1.5.1.

Finally, there are a number of women now resident in the Czech Republic who were sterilised in Slovakia during the period before the division of the Czechoslovak Federal Republic on 1 January 1993. Challenges to the coercive sterilisation of Romani women in Slovakia have gone significantly worse than those to date in the Czech Republic, with Slovak officials denying, in some cases with reference to CEDAW,<sup>30</sup> that there is any problem whatsoever in Slovakia, and in a number of cases harassing victims and their advocates to silence.<sup>31</sup> To our knowledge, Czech officials have never raised these issues with their Slovak counterparts, although a number of the women concerned (i) are now Czech citizens and in any case (ii) were citizens of Czechoslovakia at the time they were coercively sterilised.

<sup>30</sup> On 21 September 2004, the European Roma Rights Centre submitted, under the confidential complaint mechanism available before the United Nations Committee on the Elimination of Discrimination against Women ("CEDAW Article 8 procedure"), details concerning procedures undertaken by Slovak medical officials with respect to 49 Romani women. This complaint included details of 22 cases of sterilisation performed without any form of consent; 23 cases of sterilisation in which consent to sterilisation was obtained by coercion; and four cases in which sterilisation had been performed following consent secured absent the provision of information regarding alternative contraceptive measures.

In a communication of 1 August 2005, the CEDAW declined to conduct an Article 8 inquiry into the matter, primarily as a result of the entry into force, on 1 January 2005, of a new Act on Healthcare, including provisions to ensure "ethical medical practice as well as access to a patient's file". The CEDAW communication states, however, that while it would not at present conduct an inquiry into the matter, under the Article 8 procedure, "it remains concerned that there may have been individual cases of sterilisation of Roma women without consent or with consent obtained by coercion and that, within this context, the issues of responsibility and redress have so far not been sufficiently addressed." The Committee further advised the Slovak government "to pursue and appropriate consideration of these questions".

This decision, issued confidentially to the ERRRC and the Slovak Government has been dramatically misrepresented by Slovak officials in public statements. For example, according to the Slovak news agency SITA from September 29, 2005, Mr. Jozef Centes, Vice President of the Criminal Division of the Slovak Attorney-General's Office, made statements that "illegal sterilisation of Romani women has never happened in Slovakia" and claimed that the same conclusion had been reached by a UN Committee after examining the issue upon request submitted by the European Roma Rights Centre. The statements of Mr. Centes were welcomed, endorsed and repeated by a number of Slovak officials, and have been widely quoted in the media. In addition, the views of a number of European expert bodies which have expressed extreme concern at the actions of Slovak medical officials have also been misrepresented by Slovak officials.

<sup>31</sup> To name only a few actions undertaken by Slovak authorities in response to these issues:

- Authorities including the Slovak Human Rights Commissioner and the Slovak ambassador to the Organization for Security and Co-operation in Europe threatened the authors of a report on coercive sterilization practices in Slovakia that they would be prosecuted. If the issues raised in the report were true, they would be prosecuted for failing to report a crime; if the issues in the report were false, they would be prosecuted for spreading false alarm. Both are crimes in Slovakia;
- The Slovak Ministry of Health directed hospitals not to release the records of the persons concerned to the legal representatives of the victims;
- Slovak prosecutors – despite extensive advice not to do so – opened investigations for the crime of genocide, a crime so serious that evidentiary standards could not be met, and they then predictably concluded that this crime had not been committed, ending their investigation into the matter. The same authority has repeatedly released misleading information to the media, deliberately perpetuating a state of delusion about the matter currently prevailing among the Slovak public.

## 1.6. Comments to Information Provided by the Czech Government to the CEDAW Committee Concerning these Matters

### 1.6.1.

In its "list of issues and questions with regard to the consideration of periodic reports" document of 22 February 2006, the CEDAW Committee took note of the report by the Czech Ombudsman and requested that the Government:

"Kindly clarify the measures, including legislative measures, undertaken or planned to respond to this conclusion, including compensation of victims of coercive sterilization and prosecution of those responsible for abuses."

### 1.6.2.

The response of the Czech Government of 17 May 2006 to this request for information has been highly inadequate.

### 1.6.3.

In the first place, in its response, the Czech Government has apparently chosen to rely solely and entirely on information provided by the Ministry of Health. As the matters at issue are first and foremost matters of just remedy – as the CEDAW Committee appropriately recognised in the formulation of its request to the Government – the reliance by the Government solely on information provided by the Ministry of Health is highly unusual.

### 1.6.4.

Secondly, in the course of these proceedings, the Ministry of Health has been (i) to date at best ambivalent about efforts to secure justice for victims, and (ii) has been strenuously criticised by the Ombudsman for failing to act to set matters aright in the Czech medical community when the matter was first brought to the attention of the Ministry of Health by the Ombudsman in late 2004/early 2005. To date, the Ministry of Health is among those public institutions to have remained publicly silent following publication of the Ombudsman report.

### 1.6.5.

Concerning the specific issues raised in the Government's response to the CEDAW Committee of 17 May 2006:

### 1.6.6.

As concerns the numbers of persons found harmed by the Ministry review, the data supplied by the Ministry are in doubt, for the reasons identified in the Ombudsman's report:

"If the basic task of the advisory board of the Minister of Health or indeed the Ministry of Health as such was to examine the legal admissibility of the sterilisations under inquiry in addition to whether the sterilisations were performed *lege artis*, i.e. according to good medical practice, the board should have dealt primarily with the material content of the acts captured in the

- Slovak police investigating the issue urged complainants to testify, but reportedly warned a number of them that their partners might be prosecuted for statutory rape, since it was evident that they had become pregnant while minors; under this pressure, a number of victims withdrew testimony.

medical records. The ministry failed to satisfy this requirement. A fundamental defect in the approach of the Ministry of Health was emphasis and reliance on formal aspects that failed to capture the broader context of the cases, with an impact on the legal assessment of the quality of the legal acts made by the sterilised persons. For that matter, the previous attempts of state authorities at an inquiry into the matter featured a similar basic defect.”<sup>32</sup>

#### **1.6.7.**

Even according to the rigid approach applied by the Ministry, in 49 of 76 cases, either existing rules were not followed by doctors (41 cases) or other doubts exist as to the quality and authenticity of the consent and whether it meets the standards of “full and informed” (8 cases).

#### **1.6.8.**

As concerns the eight-point list of proposals by the advisory team to the Ministry of Health, as included in the 17 May 2006 response by the Czech Government to the CEDAW Committee:

- 1) The first recommendation appears possibly to concern drafting amendments to legal provisions governing sterilisations to ensure that they are carried out in compliance with international standards, although it is not certain that this is the case, since as worded, the recommendation is incoherent.<sup>33</sup> The submitting organisations here note that inadequacies on the part of the Ministry’s September 2005 proposals were the explicit reason for the Ombudsman to publish his report.<sup>34</sup> In his report, the Ombudsman has provided detailed guidelines as to the scope and content of amendments required to Czech law to ensure that individuals are protected from coercive sterilisation. It is unclear why, as of 9 June 2006, this issue is still pending, and Czech Government officials have taken no evident action in the matter.
- 2) Concerning Recommendation 4, the proposed measure is misleading, since in the Czech Republic medical school is not “post-graduate education” but is professional training at university level. It is unclear what is meant by “post-graduate education” in this context. The Ministry does not appear to be proposing to include training in patients’ rights into the standard curriculum of medical training in the Czech Republic. If this is in fact the meaning of Recommendation 4, the CEDAW Committee should take a very dim view of an approach which would continue to strictly exclude training in fundamental human rights issues from vocational training for medical practitioners.
- 3) That the Ministry may establish a second disciplinary review instance, as proposed in Recommendation 5, is a welcome development. However, there are currently a number of

criminal complaints open in these matters and, as noted, some of these complaints have been dismissed, apparently arbitrarily. The Government should be asked to supply further information on the reasons for dismissing criminal complaints submitted by the Ombudsman, and how the Government intends to punish those persons who may have breached existing standards, but where breaches may not have risen to the level of criminal liability.

- 4) Recommendation 5 is further burdened by its tautological nature, since it seems to suggest that a central expert commission would only be established in cases in which “there occurred serious misconduct”. This however begs the question of why, if in any given existing or potential future case “serious misconduct” has been identified, why the establishment of “central expert commission” might be required simply in order to “lodge a complaint” in the matter. Recommendation 5 cuts to the heart of the Ministry of Health approach to these issues, wherein the establishment of an apparently endless procession of committees and expert review panels is perceived as sufficient action to remedy what are, at essence, systemic harms. Here again, the Committee should take a dim view of the Government’s efforts, if as indicated the primary result of a finding of harm by one expert commission is the establishment of another expert panel.
- 5) As to Recommendation 6, since the Ombudsman is an institution endowed neither with remedial nor with punitive powers, it is insufficient, absent other measures not proposed here;
- 6) Similarly, Recommendation 7 proposes no remedial action for persons evidently coercively sterilised, but where medical records have been destroyed.
- 7) Finally, in relation to even these thoroughly inadequate proposed measures, “The Ministry of Health has not as yet decided about implementation of the measures proposed by the advisory team.”

#### **1.6.9.**

Efforts to coercively sterilise Romani women in the Czech Republic have arisen as a result of a combination of factors including but not necessarily limited to: (i) the unaddressed legacy of eugenics in Central and Eastern Europe, which continues to influence medical practice in countries including the Czech Republic to today; (ii) a general vacuum of respect for patients’ rights, (iii) particular contempt for the moral agency of Romani women; and (iv) “concern” at high levels of Romani birth rates. As a result of these, hundreds of Romani women have suffered extreme harms at the hands of Czech doctors. These issues have been raised regularly by Czech and international agencies since the late 1970s. As yet, however, no action by the Czech government has been sufficient to provide adequate remedy to victims, or even to stop the practice once and for all.

#### **1.6.10.**

The measures proposed by the Czech Government in its 17 May 2006 response to the CEDAW Committee are extremely far from adequate to address the foregoing.

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<sup>32</sup> Ombudsman Report, p.76.

<sup>33</sup> “1. draft the wording of informed consent for sterilization and publish the same in the Bulletin of the Ministry of Health”.

<sup>34</sup> “The Public Defender of Rights deemed the Minister of Health’s letter dated September 29, 2005, to be a statement on his report under Section 18 par. 1 of the Public Defender of Rights Act. Since the matter was not concluded satisfactorily by this letter, the Public Defender of Rights proceeded, in compliance with Section 19 of the Public Defender of Rights Act, to the framing of this report.” (Ombudsman Report, p.6).

## 1.7. Further Governmental Actions Required for Justice in the Matter of Coercive Sterilisation of Romani Women in the Czech Republic

### 1.7.1.

The publication of the report by the Ombudsman, as well as the decision by the District Court in Ostrava in the matter of *Ferenčíková v. Vitkovičká Hospital*, are among the most important developments in Central and Eastern Europe to date in efforts to end the practice of coercive sterilisation and secure justice for victims of this practise. The humiliating treatment Ms. Ferenčíková suffered is similar to that of countless other Romani women in the Czech Republic and elsewhere in Central Europe, where as a result of fundamental contempt for Romani women and their ability to make informed choices about matters related to their own bodies, doctors and social workers have, for at least the past three decades, routinely and regularly overridden their free will as individuals and subjected them to debasing bodily invasion, with irrevocable consequences. These specific practises targeting Romani women are made possible by a general culture of paternalism among medical practitioners in the region, resulting in threats of abuses of fundamental human rights to any persons entering medical care, and to women generally.

### 1.7.2.

The Ombudsman's report brings detailed recommendations to Czech law- and policy-makers, as well as to other stakeholders, aimed at bringing about systemic changes in this area, as well as bringing just remedy to the victims. Among other recommendations, a compensation mechanism is proposed for certain categories of victims.

### 1.7.3.

Despite the elapse of more than 6 months since the release of the Ombudsman's report, the Czech government has offered no indication to the public as to how or when it intends to implement the measures proposed by the Ombudsman. Public officials have yet to undertake the simple act of a public apology. The following measures are needed in the near term in order to ensure that (i) the victims receive justice, finally, and without any further delay (ii) Czech law is amended to remove the current threats to all women of coercive sterilisation and (iii) Czech society might begin finally to address these race-based harms, degrading to women:

## 1.8. Recommendations for Government Action

### 1.8.1.

**The Prime Minister should issue, as a "Decision of Government", a public apology to the victims of the practises described in the Ombudsman's Report.**

### 1.8.2.

**The Czech Legislature should act without delay to adopt the legislative changes necessary to establish the criteria for informed consent in the context of sterilisation set out in the recommendations of the Ombudsman's Report (Recommendations Section A – "Legislative measures").**

### 1.8.3.

**The Ministry of Health should act without delay to implement in full the recommendations on "Methodological measures" set out in section B of the Ombudsman's Report.**

### 1.8.4.

**The Czech Legislature should act without delay to establish by law the compensation mechanism proposed in the Ombudsman's Report (Recommendations Section C – "Reparation measures").**

### 1.8.5.

**The Government should establish a fund to assist victims of coercive sterilisation in bringing claims under the compensation mechanism or, where relevant, before courts of law, such that all victims of coercive sterilisation have access to justice. Such a fund should be able to: (i) provide compensatory damages to victims, in such cases where the mechanism established pursuant to the Ombudsman's Report may not be able to; (ii) support the work of advocates in bringing claims to court; (iii) where relevant, ensure payment of court fees and other relevant costs arising in the course of establishing coercive sterilisation claims before courts of law and/or other instances.**

### 1.8.6.

**The Government should seek, in cooperation with the Council of Europe, legal opinion as to the best method for providing compensation to victims of coercive sterilisation practices during the period post-1991 (i.e., those not necessary covered by the measures included in Recommendations Section C – "Reparation measures"), but possibly beyond relevant statutes of limitations, such that the Government is in full compliance with its obligations under the European Convention on Human Rights and other relevant international law.**

### 1.8.7.

**That in cases in which hospital records of relevance to establishing claims of coercive sterilisation have been destroyed, the government should make public the criteria by which individuals shall establish the veracity of claims for compensation for practices of coercive sterilisation.**

### 1.8.8.

**Within the limits of the powers available to his office, the General Prosecutor should monitor investigative proceedings in the matter of criminal complaints filed in the course of the Ombudsman's investigation into these practices, and report to the public the findings of these investigations.**

### 1.8.9.

**The Czech government should make financial assistance available to women who have been coercively sterilised, such that they**

might undertake artificial insemination measures, should they so choose.

#### 1.8.10.

**The Czech Ministry of Foreign Affairs raises with the Slovak Government the issue of compensation for persons who are currently Czech citizens but who have been coercively sterilised in the Slovak Republic.**

## 2. Preamble, Articles 1 and 2: Domestic Violence

Domestic violence has begun to be perceived as a matter of general public concern in the Czech Republic in recent years. There have been positive developments in many aspects of addressing the problem of domestic violence; however, many problems still persist with legal regulations as well as with the practice of the state authorities.

### 2.1. Interdisciplinary approach to domestic violence

#### 2.1.1.

At present only two significant pieces of research have been undertaken on domestic violence in the Czech Republic, and the statistics they present are alarming. In 2001, sociological research undertaken by the STEM public opinion polling agency showed that domestic violence affects 16% of the population older than 16 years of age, regardless of gender; the research further confirmed that 96% of the victims of domestic violence are women. In 2004 the results of international research on violence against women were published in which the Sociological Institute of the Czech Academy of Sciences and the Philosophical Faculty at Charles University contributed research on the Czech Republic showing that almost 38% of women in the Czech Republic older than 18 years of age encounter violence from their partner at some point in their life. Only 8% of these women ever report their partner's violence to the police; in only 3% of reported cases are perpetrators ever charged; and in only 1% of those cases in which charges are brought is a perpetrator ever sentenced.

#### 2.1.2.

In recent years, the Czech government has developed policy to begin to address domestic violence. In 2001 an interdepartmental working group for an interdisciplinary solution to domestic violence was established (consisting of representatives from the Ministry of Labor and Social Affairs, Ministry of Justice, Ministry of Education, Youth and Sports, Ministry of Interior, and Ministry of Health, as well as representatives of an NGO coalition, KOORDONA). Governmental Decree No. 794 of 25 August 2004 obliges the Labor Minister, Justice Minister, Education

Minister and Interior Minister to adopt measures for introducing interdisciplinary teams which combine medical, social, and police aid to victims.

#### 2.1.3.

**The Ministry of Justice** has proposed an amendment to the legal regulations explicitly defining domestic violence as a crime (in literal Czech translation, the crime of "abuse of a person living in a shared household") in the Criminal Code. Related provisions exist in the Code of Criminal Procedure, the Civil Code and the Code of Civil Procedure. According to available information, these proposals do not contain new, specific regulations to improve the situation of the victims. The amendment to the Criminal Code was introduced to the Parliament and subsequently dismissed; it would have upheld current regulations and introduced more restrictive sanctions. In addition to the questionable institution of requiring the victim's consent for criminal prosecution of domestic violence, the substantive draft of the amendment to the Code of Criminal Procedure also included the institution of a so-called "application" criminal act (prosecutable *only* when the victim applies, not prosecutable *ex officio*), which contradicts all previous experience in regard to domestic violence victims. Such a legal regulation would put an even heavier burden on the victim to seek punishment of the perpetrator, which is not an appropriate position in which to place the victim.

#### 2.1.4.

**The Probation and Mediation Service**, an organ responsible to the Ministry of Justice, **is preparing the accreditation of therapeutic programmes for adult perpetrators of domestic violence as well as programmes for victims.** This is a breakthrough development in policies concerning domestic violence, which so far have focused only on the victims. This task was assigned to the Ministry of Justice and Ministry of Health with a deadline of 31 December 2005. The Ministry of Justice adopted no measures during this period save for assigning this task to the Probation and Mediation Service, which did not consider this task a priority and did not have adequate human and financial resources to address it. The deadline for establishing an accredited therapeutic program for perpetrators is therefore uncertain.

#### 2.1.5.

**The Ministry of Interior has issued Methodological Guidelines** for the Director of the Office of the Criminal Police Service of the Police Directorate of the Czech Republic to regulate police practices of reporting, screening, and investigating domestic violence. The Guidelines are binding on all policemen, but **compliance and effectiveness in practice has not been supported by training of police officers (who are in most cases men) at all levels.** In some regions police have been trained in cooperation with non-governmental organizations, but this training has not been systematic. The role of the police is crucial, because they are often the first authorities summoned to address instances of domestic violence, often in very acute situations, and the calibre and quality of the response of the particular officer involved is of paramount importance. Although police practices have improved, the police still often secondarily traumatise victims. The statutory obligation of the police is to ensure the safety of the victim and

to investigate the perpetrator, but domestic violence is still often perceived as a private matter and the police do not generally use their power to detain the aggressor for 24 hours. Detention for such a period would give the victim the possibility to deal with immediate problems, to escape the aggressor's reach together with the child/ren, and to find temporary, safe shelter.

#### 2.1.6.

An exceptional project did begin **in May 2005** whereby **the Municipal Police Directorate in Brno established a Working Group on domestic violence**. This is the only such police-initiated group in the Czech Republic and, thanks to the openness and competence of the police officers involved, interdisciplinary cooperation on cases of domestic violence is possible, which has brought about positive changes.

#### 2.1.7.

After the evaluation of a project entitled "An interdisciplinary approach to domestic violence in Ostrava", the practice of **interdisciplinary teams** spread to the cities of Brno, Ústí nad Labem and, in 2006, to Kutná Hora. For now all these cities are using the methodology developed by the NGO "Bílý kruh bezpečí" (White Circle of Safety). In future it will be necessary to establish the interdisciplinary teams more systematically and develop a new methodology suitable for such teams in smaller cities. So far the establishment of these interdisciplinary teams has been initiated thanks to the personal initiative of committed people and NGO pressure, rather than due to any systematic or coordinated process; such voluntariness is a weak point of these interdisciplinary teams. Some of the teams lack representatives of the judiciary, public prosecutors, or child protection agencies - all crucial actors for an interdisciplinary response to domestic violence - due to the lack of a mechanism for involving these institutions in the teams. The positive impact of this interdisciplinary approach to domestic violence is supported by statistical data, which show that the most criminal offences of "abuse of a person living in the same household" (= domestic violence) were detected in 2005 in those regions where the interdisciplinary teams are operating. This higher reporting rate of domestic violence shows that domestic violence is being addressed and the legal tools to detect it are being more utilized in regions where these teams have been established.

#### 2.1.8.

**The Ministry of Health** has prepared a draft of its "**Guidelines of the Ministry of Health for physicians on the procedure of providing medical treatment to victims of domestic violence**". The Guidelines aim to unify the procedure of providing medical treatment to victims of domestic violence. The Guidelines currently represent the minimum required to address domestic violence; moreover, the impact of the Guidelines on medical practice will be insignificant unless there are more proactive awareness-raising programs about the problem of domestic violence among physicians. As with the police, there exist specific examples of **educational activities** targeted at medical staff, but this education is **neither systematic nor comprehensive**. In order to comply with its task of participating in the development of therapeutic programs for perpetrators, the Ministry of Health has subsidized some unique research into treatment for perpetrators of violence

in the family, and the research findings were distributed to the administrators of hospitals. This research should form the basis for developing therapeutic programs for perpetrators, and the initiative is to be praised. However, there are concerns about adopting only one particular scientific approach to therapy for perpetrators, especially when the approach generated is a random result of the state's grant policy. Several NGOs have also considered establishing therapeutic programs for perpetrators, but there are no funding opportunities for establishing such programs, even though the Criminal Code does provide for the possibility of requiring a perpetrator attend such a program.

#### 2.1.9.

**The Ministry of Labour and Social Affairs** subsidizes NGOs providing social services to victims of domestic violence. The length of the subsidy process means NGOs are often granted the subsidies with a three-month delay. NGOs are therefore sometimes forced to take out bank loans even though it is unclear they will be able to repay the loans. The Ministry prepares systematic trainings for the staff of child protection agencies, an initiative to be praised. Child protection agency staff are one of the most important actors in detecting domestic violence in the family and an important element in the interdisciplinary approach to domestic violence. **The ordinary members of the staff of child protection agencies still lack expertise concerning domestic violence**. The ordinary staff still lacks comprehensive information, some of the agencies are understaffed, or staff is underqualified (some of the positions require a university education in psychology and law, which is rare among the staff) and there is a lack of supervision. Burnout is common. **Cases often occur wherein the workers of the child protection agencies are intimidated or manipulated by one of the parents (often by the perpetrator of the domestic violence) into supporting the abusive parent**. The staff does not have any legal protection from violent parents. **It is an underpaid and non-prestigious profession in which women comprise the overwhelming majority of staff members**.

#### 2.1.10.

Primary prevention of domestic violence in the schools is a funding priority of the Ministry of Education, Youth and Sports.

## 2.2. Civil society

#### 2.2.1.

Even though the NGO sector in the field of domestic violence has developed in recent years in terms of the quality of its work and the number of organisations functioning, there is still a **deficit in services for victims of domestic violence**. According to statistical data, there are 58 organizations in the Czech Republic providing some form of help to victims of domestic violence. However, the **regional allocation of these services is very imbalanced**. There are counselling centres as well as shelters in large cities such as Prague, Brno, or Ostrava, but there is a lack of these services in smaller cities and other regions. The worst situations are in the Pardubický and Jihočeský (South Bohemian) regions, for which there is only one shelter and no counselling centre.

### 2.2.2.

There is a **lack of organisations providing comprehensive counselling services** (a combination of legal, psychological, and social counselling) at national level, as well as a permanent lack of shelters. **With regard to shelters with confidential addresses, shelters for women with children, and shelters for seniors, the situation is urgent.**

### 2.2.3.

Positive developments have occurred in the perception of NGOs by the state authorities. **NGOs are represented on the Governmental Committee against All Forms of Discrimination against Women**, on the Interdepartmental group for monitoring of the measures adopted by the Governmental Decree on the Detection and Prosecution of Domestic Violence and Aid to the Victims, and on local interdisciplinary teams. Progress has also been achieved by NGOs in regard to resolving specific cases, and the civil society sector is perceived as a unique element necessary to interdisciplinary cooperation.

### 2.2.4.

**The financial situation of NGOs still remains problematic.** State subsidies are insufficient and are granted only for a one-year term with a three-month payment delay. The same problems arise in regard to subsidies from local governments. Applications for financing from the EU Structural Funds are so administratively complex they often require the organization to stop its workaday activities in order to apply for funding. Also, most Structural Fund resources are not targeted at victims but at labour market integration. NGOs are forced to include labour market elements in their activities even if the urgent need of most victims is not for assistance with integration into the labour market. Victim unemployment is usually caused by a lack of self-esteem due to the domestic violence. One additional benefit of providing psychological, legal, and housing assistance to a victim can also be the improvement of the victim's success on the labour market.

## 2.3. Legal regulations

### 2.3.1.

Despite some significant positive developments, legislative assistance to victims is still insufficient. The most significant progress in 2005 was the practical implementation of the new criminal offence of "abuse of a person living in a shared household" (para. 215a of the Criminal Code, in force since 1 June 2004) and **the criminal prosecution of domestic violence has improved.** The Chamber of Deputies has also approved a bill on protection against domestic violence.<sup>35</sup>

### 2.3.2.

**The institution of „restraining orders“ to prevent aggressors from contacting victims has yet to take effect.** Prohibition on contacting the victim can in theory be imposed as a preliminary ruling in a civil proceeding (for example, a divorce proceeding),

but such decisions are very unusual from the legal point of view and very rare. **The law instituting restraining orders will come into force on 1st January 2007.**

### 2.3.3.

The most urgent problems in the area of domestic violence are **insufficient attention paid to children who have witnessed domestic violence or are direct victims of domestic violence** (the court does not take domestic violence into account in decisions on custody, and children are forced against their will to have contact with the violent parent) **and the poverty mothers often face if they decide to leave the aggressor.**

### 2.3.4.

**Court prohibition of contact between child and parent is very rarely imposed even in cases in which there is a suspicion of sexual abuse of the child by the parent.** The children are often forced to maintain contact with one of the parents against their will.

### 2.3.5.

**“Stalking” is not addressed at all.** There is no effective protection against such behaviour and no police methodology developed to address it.

### 2.3.6.

**The criminal definition of rape is insufficient.** Lack of consent is not a determining factor in the definition of rape. Rape is defined as forcing sexual intercourse under imminent threat of violence, by violence, or due to abuse of a person's vulnerability (para. 241 Criminal Code)

### 2.3.7.

**Cases where the perpetrator of domestic violence is a police officer are very problematic.** The police have successfully avoided this issue, but research from abroad shows there is a higher number of perpetrators of violence among the police and armed forces than in other professions. There has been no research undertaken on this issue so far in the Czech Republic. **Most victims' complaints against police officers are “swept under the rug” in practice, because allegations of crimes committed by police officers are investigated by an agency lacking independence that is supervised by the Interior Minister.** This problem is closely connected with corruption and clientelism, and even ex-police officers are never prosecuted for domestic violence. In cases where the perpetrators of violence are police officers, public prosecutors, judges, or members of other influential professions, the victims are in a very complicated situation and there are **no effective legal mechanisms addressing such situations.**

<sup>35</sup> Bill No. 828.

## 2.4. Difficult financial situation of the victims

### 2.4.1.

Most **victims** of domestic violence are mothers with minor children. If they decide to leave the aggressor, they often **face substantial financial difficulties**. Due to her cohabitation with the aggressor, the victim often cannot save money. Economic violence is often present, in which the victims are forced to hand over their income to the aggressor, or the victims are often mothers on maternity leave dependent on social benefits. If the victim is married to the perpetrator, problems arise due to their joint ownership of assets. The perpetrator often remains in the shared household but stops paying rent and utilities; the debts are then recovered from the victim. **The perpetrator can also create many other debts for which the victim has joint liability**. Due to the housing market situation, there is often no other alternative for the victim to solve her housing problem than to rely on the division of the shared property by the court, and court proceedings take a very long time. **Enforcement is broadly lacking in cases in which alimony payments are in arrears** (there must have been failure to pay alimony for six months before criminal prosecution can be undertaken). Social support benefits are usually not enough to cover the perpetrator's debts, and the victim cannot dispose of any joint assets without the consent of the perpetrator. **The financial situation of the victim is almost always significantly worse after leaving the perpetrator, which, for many victims, is a deterrent to resolving the domestic violence. Divorce proceedings take too long and the personal status of the victim remains unresolved for a long time**, which prevents her, for example, from taking out a bank loan to solve her housing problems.

## 2.5. Amendment to legal regulations against domestic violence

### 2.5.1.

On 14 April 2006, a new bill was passed which amends the domestic violence protection legislation. Some of the proposed amendments mentioned above concerning victim consent with criminal prosecution and the regulation of "application" offences were ultimately not adopted after the discussion in Parliament. **As of 1 January 2007, the police** will have new powers: If they are called to a domestic violence incident, they **may order the perpetrator to leave the shared household for 10 days**. The victim can ask for an extension of this measure by court order and also augment it through a **restraining order** prohibiting the perpetrator from approaching and/or contacting the victim. The law also provides for the establishment of **intervention centres in each region**. These centres will provide acute psychological and social work aid to the victims, either as shelters or clinics, and will also arrange for further forms of aid to be provided to the victims longer-term.

### 2.5.2.

Experts have criticized **this amendment**, saying that it **does not sufficiently protect the victim, because during the first 10 days after the police order, the victim is most at risk outside the common household, and the amendment does not address this**. The perpetrator usually cannot accept this loss of control over the victim and tries very hard to contact and pressure the victim. If the victim allows the perpetrator to return, the situation usually gets worse. The perpetrator will have committed the crime of obstructing a court order and may become even more violent, while the victim may fear repeatedly calling the police.

### 2.5.3.

Another problematic point concerns **determining situations in which the police can order the perpetrator to leave**. The law states that it must be a situation wherein, "based on the established facts, especially taking into account previous attacks, it is reasonable to assume that harmful attack against life, health, personal freedom or an especially serious violation of human dignity is likely to occur." The police are being trained to implement the law; guidelines on implementing the provision are being prepared; and monitoring and information systems for such offences and police intervention will be introduced. Experts are concerned that the police will be reluctant to order the perpetrator to leave in cases where there is a lack of prior record on the perpetrator in the information system. Also, the term "especially serious violation of human dignity" is too vague. It will be up to the police guidelines to recommend how to deal with these drawbacks.

### 2.5.4.

It is also not clear how the courts will react if the victim applies for a court restraining order *without* a police order having been previously issued, or whether the courts will only issue orders in cases where a previous police order exists. Also, **a new provision has been introduced into the Civil Procedure Code requiring bond (CZK 50,000 – EUR 1770) be posted by any applicant for a court injunction** in order to compensate for any eventual damages caused by said injunction. This new provision also applies to victims of domestic violence applying for restraining orders. The victim can apply to have the bond waived; nevertheless, this represents yet another obstacle for the victim to overcome and requires that the victim have access to legal aid. Such aid should be provided by the intervention centres due to start operating by the beginning of 2007, but it is already evident that there are problems with the financial and personnel resources available for such centres, and it is highly doubtful they will be established in time to meet the needs generated by the new law.

### 2.5.5.

Despite the drawbacks described above, the new regulation does represent significant progress in protection against domestic violence in the Czech Republic.



## 2.6. Recommendations for Government Action

### 2.6.1.

Government should **rigorously enforce the current regulations** on the criminal prosecution of domestic violence (“abuse of a person living in a shared household” according to para. 215a of the Criminal Code), **whereby consent of the victim is not required in order to prosecute the perpetrator.**

### 2.6.2.

The Government should allocate sufficient human and financial resources necessary for the establishment of therapeutic programs for perpetrators and **promptly establish accredited therapeutic programmes for perpetrators of domestic violence, as well as therapeutic programmes for victims**; provide sufficient funding for NGOs to introduce such programs; and support a diversity of scientific approaches to therapy for perpetrators.

### 2.6.3.

The Government should introduce **systematic and complex training** for the police on their professional response to domestic violence (including how to assess the situation when called to intervene, how to deal with victims, how to use police powers to ensure the safety of the victim, how to arrange for aid to the victim, etc.) **at all levels of the police structure nationwide.**

### 2.6.4.

The Government should establish the legal basis for creating **interdisciplinary teams**, requiring the state authorities concerned to a) participate in the teams, b) develop a unified methodology for the work of the teams, and c) ensure that the teams are established nation-wide.

### 2.6.5.

The Government should ensure that **medical professionals receive systematic and comprehensive training on domestic violence** and how to provide assistance to victims in relation to health care services.

### 2.6.6.

The Government should **allocate sufficient public funds to provide subsidies and grants to NGOs providing services to victims of domestic violence**; funds should be granted to NGOs in a timely fashion such that NGOs are not forced to interrupt their activities or take out bank loans; and governmental support should focus on regions with a lack of existing services for victims, especially on those with an under-representation of shelters with confidential addresses.

### 2.6.7.

The Government should ensure that **social workers** of the child protection agencies **receive** systematic and comprehensive **training on violence in the family with a special focus on children** as victims or witnesses of domestic violence and ensure that **workers of child protection agencies are sufficiently protected against intimidation by violent parents.**

### 2.6.8.

The Government should especially **focus on the situation of children experiencing or witnessing domestic violence**; judges should be trained about domestic violence, its impact on a child and his/her relationship to the abusive parent; the government should ensure that courts take domestic violence into account in their decisions on custody; **children should never be forced to maintain contact with a parent who has perpetrated domestic violence.**

### 2.6.9.

The Government should introduce **legal regulations providing protection against the phenomenon of “stalking”.**

### 2.6.10.

The Government should establish an **independent mechanism for investigation of allegations of crimes committed by police officers** or ex-police officers, public prosecutors, and judges.

### 2.6.11.

The Government should ensure that **divorce proceedings and proceedings on division of shared property are completed speedily in cases of domestic violence** as well as the speedy execution of back alimony; in cases where the victim and perpetrator separate, it should ensure that legal measures are introduced which prevent the perpetrator from generating debt for which the victim is liable.

### 2.6.12.

The Government should ensure that the new **act on protection against domestic violence is implemented effectively and meaningfully for victims**, i.e., that police received adequate training on how to assess situations in which they are entitled to order a perpetrator to leave, emphasising that no record of previous incidents is required as a condition for issuing such an order; that the courts grant restraining orders irrespective of the existence of previous police orders; and that victims are sufficiently protected against intimidation outside the shared household once the police order has taken effect.

### 2.6.13.

The Government should ensure that the **intervention centres will function** and be equipped with adequate financial and human resources **by the time the new act comes into force.**

### 3. Articles 2, 3 and 11: Institutional Mechanisms and Policies for Advancement and Empowerment of Women; Particular Focus on Labour Market Equality Issues

**The Czech labour market is visibly segregated according to gender.** Women dominate the non-manual jobs without management or director positions, and the most unskilled worker categories. According to wage and payment categorization, women dominate the lower levels while men increasingly occupy the highest levels. The lower wages received by women further support this segregation; men are discouraged from entering such professions because of the low wages and at the same time women have few opportunities to enter the leading positions. In this way, the current situation remains unchanged. However, the Amendments to the Czech Employment Code and Labour Code brought changes to the existing labour market through prohibition of both direct and indirect discrimination based on gender, family or matrimonial status; equal treatment of men and women in employment; equalization of childcare (via introduction of “parental leave”, which is, however, only scarcely taken by men – current data show that only 1.3% of men take parental leave); introduction of the principle of “equal pay for equal work” and prohibition of mobbing and sexual harassment. The new legislation represents a significant progress but to the small number of experts working in this field, it is evident that the implementation of the law is being underestimated.

**Certain categories of women in the Czech Republic are discriminated against in the labour market:** Romani women, women with small children, women close to retirement age (over 50 years of age) and women with only primary education represent the most vulnerable groups. Women with the best chances on the labour market are women with a university degree, young women in certain professions, and also women with a university degree who work in professions with higher levels of feminisation: medical doctors, judges, teachers, and social workers.

There is an enormous difference between male and female wages in the Czech Republic. **The average female wage is 18% (2005) lower than the average male wage (in fulltime jobs) despite the fact that, in general, Czech women have a similar or better education and more qualifications than men.** In fact, women dominate the middle-skilled labour force. They earn comparatively the most in sectors in which they are the least represented. The wage difference differs depending on individual jobs. However, it is very low for example in the case of primary teachers. Although the principle of equal pay for equal work and the principle of equal remuneration for men and women has been legally established in the Czech Republic, it does not reflect the everyday reality. This aspect is not sufficiently monitored

since the indicator “price of labour” that allows for the qualified comparison of various professions has not yet been introduced. A recent amendment to the Employment Act does provide a formal legal framework, but until a good quality comparison becomes available, the law will remain a mere intention.

#### 3.1. Discrimination

##### 3.1.1.

The Labour Code and Employment Code include clauses against discrimination; definitions of direct and indirect discrimination, mobbing, and sexual harassment; and non-discriminatory exceptions (moreover, e.g., the Law on Wages states there must be equal pay for equal work or work of equal value and provides definitions of these terms). A new amendment to the Labour Code entered into force on 1 March 2004, bringing about further changes in the field of equal opportunities (further developing the version of the Labour Code in force since 1 January 2001), in particular with regard to the fundamental principle of equal treatment for men and women in access to employment, vocational training, promotions, and working conditions, as well as the prohibition of any kind of discrimination in employment relations on the grounds of sex. The new amendment also defines direct and indirect discrimination, mobbing, and sexual harassment in more detail. The fact that this principle is included in the general part of the Labour Code shows its general relevance to all of Czech labour legislation. Appropriate changes were also introduced to the Employment Code (in 2004) and the Social Insurance Code (approved by the Parliament in March 2006 but not yet in force). On the other hand, **the Antidiscrimination Act, which defines equality and antidiscrimination more broadly than it is defined within the Labour Code or Employment Code, has not yet been approved** (Parliament approved it in December 2005 but it was rejected by the Senate in January 2006 and returned to the Lower House). The Employment Code also provides the legal framework for positive measures being realised when necessary.

##### 3.1.2.

Some practitioners have in recent years also made use of civil code provisions protecting the dignity of the personality in challenging various forms of discrimination.

##### 3.1.3.

The foregoing notwithstanding, **Czech lawmakers have failed to transpose very significant parts of the international law anti-discrimination acquis into the domestic legal order. Individuals enjoy little or no legal protection from discrimination in areas including but not necessarily limited to education, health care, housing, social assistance and police services. Czech lawmakers have to date failed to bring domestic anti-discrimination law into line with European Union requirements, which are themselves considerably narrower than those available under international law. The number of individuals to have actually secured justice when suffering any form of discrimination in the Czech Republic can be counted on the fingers of one hand, and the public at large remains broadly unaware of the nature and scope of the**

**international law ban on discrimination. As such, all women in the Czech Republic are exposed to the threat of discrimination. Romani women are particularly threatened with these harms.**

#### **3.1.4.**

The Czech government's State Party Report includes a list of Constitutional provisions, as well as laws and other regulations including declaratory non-discrimination provisions. Since **these laws include few if any procedural provisions, individuals and their advocates have little guidance as to how to interpret or apply these formal, declaratory provisions, and law enforcement and judicial authorities similarly have little guidance.** As a result, most if not all of these legal texts have in practice a purely formal character, and have offered little or no shelter or remedy to victims of discrimination in the Czech Republic.

#### **3.1.5.**

**Some Czech laws are in fact indirectly discriminatory against women.** For example, notwithstanding its formal, declaratory non-discrimination provisions, the Law on Pension Insurance (No. 42/1994 Coll.) includes a differential data basis for the definition of pensions for women and men, with a resulting adverse outcome for women, who in reality pay more for pension insurance than men, based on the assumption that they will live longer.

#### **3.1.6.**

On the basis of the results of various projects run by NGOs, it is evident that women (and in some cases men) often suffer direct and/or indirect discrimination on the basis of their sex. Many do not, however, know their rights (and duties) as grounded in the Labour Code and Employment Code, and are worried about resolving their case or even making it public. They also often emphasise the fact that Czech justice has not had experience with similar cases; therefore, they worry about the results and effects of such steps. Moreover, there are issues concerning the length of proceedings in these and similar cases.

#### **3.1.7.**

On 8 March 2006, the first ever action in the Czech Republic related to discrimination on the basis of gender was filed by a woman in an alleged case of direct discrimination during a selection procedure for a position in the top management of a private company.<sup>36</sup> The fact that few if any actions have been lodged previously has little to do with the extent of discrimination against women on the labour market, and is instead related to the fact of inadequate law and policy in this area, stigma and threat of retaliation against those who challenge discrimination, as well as other factors.

#### **3.1.8.**

The Ministry of Labour and Social Affairs does not initiate distribution of information on employees' rights or on laws that relate to discrimination and offer solutions; instead, this work is done by NGOs and trade unions. Were it not for civil society, the

public would not even know that once all available measures have been taken without success, there is still the possibility to use the measures within the Optional Protocol in such matters.

#### **3.1.9.**

**Employers often take advantage of employees' lack of information and fear** in order to resolve discrimination problems. Results of analyses made in 2006 via focus groups with employers also show that employers themselves are not aware of the extent to which they are breaking Czech law related to the employees' rights. Due to a lack of information on the employee side, employer behaviour remains unaddressed.

#### **3.1.10.**

In areas outside equality law, there are examples of extremely poor practice by some Czech state agencies. For example, limited-period contracts concluded with a female employee were renewed repeatedly by the Ministry of Education, Youth and Sports, even though the law does not allow employers to repeatedly do so with the same person for the same job description. Similar practices are often used in the private sector.

## **3.2. Positive action**

#### **3.2.1.**

According to the new Employment Code (No. 220/2002 Coll.) and Labour Code (No. 65/ 1965 Coll.) it is possible to "adopt so-called positive measures in favour of persons of a sex that is under-represented in decision-making activities, as well as positive measures removing disadvantage due to other reasons."

#### **3.2.2.**

Although both codes allow the implementation of positive actions, **there is a lack of awareness of the existence of such measures, along with a misunderstanding of possibilities for positive action / positive measures among employees and employers.** The Government has done little, if anything, to promote positive action policies in the field of employment.

#### **3.2.3.**

In general, **ministers** and other representatives of ministries **respond very negatively to any kind of proposed positive action or other affirmative measures,** although it is evident – e.g., from their pronouncements – that they do not understand the nature of such measures. Most often, they refer to the country's democratic Constitution and other human rights documents guaranteeing the same equal rights to all citizens. At the same time, the ministries declare that they fulfil their duty of promoting equal opportunities for women and men adequately via their trainings of their officials. This is, however, controversial, since none of the ministerial documents use the basic rules of gender-sensitive language. It is then difficult to expect that the trainings of officials are properly structured, supported, or even attended by top representatives of the ministries.

<sup>36</sup> Previously, in March 2005, a 36-year-old Romani woman named Vera Dunkova prevailed in court in a case against the Rossman international drug store chain after a Prague outlet refused to hire her on racially discriminatory grounds. Such cases are however rare, and few if any policy changes have been adopted as a result of the Rossman decision.

### 3.3. Governmental policies

**In general it can be said that, not only for the reporting period, but for the past 16 years, no government has genuinely considered gender issues to be of social significance, and all have tended to minimise the importance of both monitoring and addressing gender equality.**

#### 3.3.1.

**Government Action Plans and reports on gender equality are usually very vague; they often overstate reality and describe actions undertaken or initiated by women's NGOs as projects realized by the state.** The effectiveness of the government's activities often depend largely on the personal commitment of the person(s) responsible for the concrete action/activity and not on the institution responsible for the action (e.g., the Czech Statistical Office is responsible for collecting and analyzing data segregated according to gender and does so on the basis of a document which plays the role of an Action Plan – the Government Priorities and Procedures of the Enforcement of Equality of Women and Men – and the task has been given to the CSO by the Ministry of Labor and Social Affairs. The group of people working on the statistics and follow-up publication is dedicated to this work; however, the groups of editors of this work, who come from various institutions, perceive the whole issue as unnecessary and irrelevant).

#### 3.3.2.

In general, the government's ineffectiveness is influenced by the **general lack of awareness among the public**, which the government has done little to combat; general disregard for gender equality by the political representation; and a lack of an overview of gender equality policies in the European Union and United Nations context. As far as politicians are concerned, none of them understand gender issues-related policies as a key issue to promote and implement within their actions, not only during parliamentary decision-making, but also in communication with the media, etc.

#### 3.3.3.

**Support for gender equality by the Government is neither long-term nor structured.** Such activities – i.e., information campaigns, press conferences, education, etc. – are almost entirely realized by NGOs which are performing activities that should be either developed by or at least supported by the state.

#### 3.3.4.

The Government's stated intention to support women's participation in the labour market has to date not been very successful, featuring as it did a cycle of reportages (available for view on the ministerial website) about applying for jobs, re-qualification, etc. **The reportage cycle promoted many gender stereotypes instead of combating them, and also used gender-insensitive language and images.** For example, in language, officials in both speech and writing use the masculine plural form even when speaking about groups that are 100% female; or the images used in a series of films ostensibly about women's employment produced by the Ministry of Labour and Social Affairs show women shopping for clothes in department stores.

Stereotypes about women's presumed inability to use technology are also prevalent in the language of public officials.

#### 3.3.5.

Without the **programmes supporting the topic of equal opportunities** (almost solely in terms of the labour market) which have been supported by European Structural Funds with some additional support from the Czech budget, no activities focused on improving employment opportunities for women would exist in the Czech Republic. These activities **are not initiated by the state** but by NGOs that then include, e.g., local labour offices, municipal representatives, etc., in their activities. It must be emphasized that these are not at all strategic or structural activities following up on a state initiative, but predominantly activities by NGOs or private companies – e.g., educational or training institutions.

#### 3.3.6.

**The twinning project** focusing on improving gender mainstreaming structures in the Czech Republic, realized in 2002-2003 through cooperation between the Ministry of Labour and Social Affairs and its Swedish partner, did not meet expectations – the **recommendations** resulting from the project were not provided as much attention as they deserved and **were almost completely ignored after they were made.**

#### 3.3.7.

**Government or ministry-funded research on equal opportunities** is generally not used by the government for the purpose of sustaining an ongoing public debate on the question of equal opportunities vis-a-vis gender. The Government seems to be doing the minimum necessary to fulfil EU and CEDAW tasks "somehow" with no intention of making these issues part of the public discussion of governance.

#### 3.3.8.

As in 2.2.5., **when members of the Government or of the institutions of public administration discuss specific actions taken for disadvantaged target groups of women on the labour market, they also often refer to projects that have not been implemented by the state** at all, but by NGOs, some in partnerships with local labour offices, research institutions, or educational institutions. The impression is given that the state is taking greater care of this target group than it actually is.

#### 3.3.9.

**In their reports relating to the fulfilment of gender equality measures, ministers also appropriate NGO activities under their patronage, even though the ideas and realization of these activities did not arise through any ministry initiative and do not represent a comprehensive government policy.** The Ministry of Industry and Trade (which supported the „Contest for the Best Company providing Equal Opportunities“) and the Ministry of Agriculture (which supported some activities of the Czech Women's Union) are examples.

#### 3.3.10.

Representatives of the Government and state institutions often emphasise that in the area of equal opportunities, the

**Governmental Council for Equal Opportunities of Women and Men** (a permanent advisory governmental body on equal opportunities policies) plays an important role. The Council's role is to deal with the realization of equal opportunities policies. The Council's members are representatives of ministries, academia, NGOs, and the political sphere. Representatives of the regions are also invited to the Council's meetings – however, this does not mean they pay any attention to the Council's decisions, especially, more importantly, at the regional levels. There are no positions or persons responsible for gender equality issues at either regional or local level. This fact can be identified at regional level – no activities that would structurally consider gender equality issues are defined - and also at state level, where the Council's importance is not truly respected. The Governmental Council **does not have any decision-making power, but merely fulfils an advisory role; its recommendations are accepted and reflected within the Government's decisions only very rarely.**

### 3.3.11.

In 2003-2004, **the Ministry of Finance developed a gender budgeting methodology** from the point of view of equality of women and men within the scope of the Priorities and Procedures governmental document. This publication was presented at a seminar, **but no action subsequently followed – the document was not taken advantage of at either the local, regional, or national level.** Even its distribution was left up to other institutions, e.g., to NGOs.

### 3.3.12.

Following the Council's recommendation, the Ministry of Labour and Social Affairs (MLSA) launched a grant proceedings focused on equal opportunities for women and men; it was opened for the year of 2005 and grants were divided among 16 projects, with the highest grant amounting to CZK 315,000 (approximately USD 14,000). However, similar funding was not subsequently opened in 2006, based on the unofficial reasoning that MLSA does not dispose of the appropriate personnel to run such a grant proceedings. **Women's NGOs have thus had the chance to receive a grant from the Czech national budget focused on equal opportunity during only one single year – a minimal budget grant that did not allow the organizations to build up their sustainability.**

### 3.3.13.

**The state's representatives also declare that in 2006, the Ministry of Labour and Social Affairs and the Government's Human Rights Commissioner are realizing an information campaign on equal opportunities** for women and men. **As of mid-year, no such campaign is running** and none of the women's organisations dealing in the long term with related issues have been informed of any such plans.

### 3.3.14.

**The Czech Statistical Office (CSO) regularly develops gender statistics** on the basis of a task assigned to it in the Government Priorities and Procedures document. According to CSO representatives this is only being realized because it is a task demanded by the government; the CSO officers themselves do not

perceive it as important and refer to the public's lack of interest in the statistics. **However,** the problem of lack of interest lies somewhere else: **Neither the Government nor the ministries have been able to present, defend, or explain the statistical results to the public or the media.** It is very complicated to expect that such documents or data would raise any interest unaccompanied by an information or awareness-raising campaign. There is another insufficiency related to gender statistics: Although all the major data are disaggregated according to gender and are then made accessible, regional strategic development plans do not consider the statistics at all, not even in sections of those plans focusing on unemployment or educational structures in the region in question, as both are significantly gender-specific.

### 3.3.15.

**Official statistical data is completely inadequate when it comes to documenting particular groups of women, such as migrant women and Romani women.**

### 3.3.16.

**The coordinators of the twinning-project mentioned above also recommended enlarging all positions of gender focal points responsible for gender policies within the respective ministry. This was not done even though the Government Council provided identical recommendations.** According to the information available, the only such position enlarged temporarily (from half-time to full-time) was at the Ministry of Education, Youth, and Physical Training. The whole system of institutional mechanisms was also criticized in both Shadow Reports to the National Reports on Priorities and Procedures document (published in 2004 and 2006) published by NGOs and representatives of academia.

## 3.4. Recommendations for Government Action

### 3.4.1.

**The Government should ensure that anti-discrimination law in the Czech Republic be brought into conformity with international standards in this area without any further delay.**

### 3.4.2.

**The Government should foster positive action policies to improve the representation of women – especially minority women – in employment, as well as to ensure that they rise in levels of responsibility equally with men.**

### 3.4.3.

**The Government should inform the public about and promote application of positive action in the labour market** – it should especially target employers while also considering a larger, long-term campaign informing the general public of their rights in the labour market, possible work-life balance strategies acceptable for both employers and employees.

#### 3.4.4.

**The Government should develop and implement anti-discrimination policies and fund them to a level adequate to need:** Allocate budget lines for organizing an information campaign on the rights of employees related to gender equality issues, as well as on the responsibilities of employers and state institutions – e.g., via presentation of best practices already in place in the Czech Republic, positive impacts of gender-sensitive human resources development plans, etc.; assist the regions in developing their own information campaigns, taking close consideration of regional and local specificities (e.g., of investors entering the region, etc.); cooperate closely with national and local NGOs; provide training to public administration officials in equal opportunities issues, etc.

#### 3.4.5.

**The Government should closely review its institutional mechanisms for equal opportunities and, where necessary amend and improve them;** it should ascribe more importance and respect to the Governmental Council for Equal Opportunities of Women and Men (including a certain level of decision-making power, budgetary support, administrative support, etc.); increase resources for positions of the gender focal points - at a minimum to make the positions full-time - and make the positions more important within the ministerial hierarchies. The Government should also review its general approach to gender equality – e.g., via promoting the Department for Equal Opportunities for Women and Men (now operating within the MLSA) and changing it into a more serious office headed by a minister responsible for gender equality policy.

#### 3.4.6.

The Justice Ministry should provide gender sensitivity training to existing judges and judge candidates, and universities should develop courses introducing all law students to the scope and content of international and EU anti-discrimination law.

#### 3.4.7.

**The Government should make sure the newly amended Labour Code is properly implemented** and promoted so as to be fully understood by employers and employees.

#### 3.4.8.

Extensive policy attention needs to be devoted to the particular **issues facing Romani women in various sectoral fields**, and policies to address these issues should be adopted and implemented without delay.

#### 3.4.9.

**The Czech government should, without delay, remedy the dearth of accurate statistical data on the situation of women from particular weak groups** – most notably ethnic minorities – in all fields relevant for social inclusion.

## 4. Articles 7 and 8: Women in Decision-Making Processes - Women's Political Participation

### 4.1.1.

In its reports, **the Czech Republic acknowledges low participation by women in politics:** After the parliamentary elections in June 2006, the number of women in the Chamber of Deputies decreased from 34 to 31; with 15.5% representation of women in the Chamber of Deputies, the Czech Republic is thus below the world average. Only 11% of Czech Senators are women, and of 14 Regional Commissioners, not one is a woman. **The representation of women in the Czech Parliament is the lowest of any European Union Member State, and rivals the lowest levels of representation of women in parliamentary bodies anywhere in the world.** Women are best represented at local level – in towns and villages – and at the European Parliament: At local level, 22.7% of elected officials are women, while 20% of all MEPs are female.

### 4.1.2.

Representation of women at ministerial level is as follows: 30.5% representation as section managers at the ministries, and 21% representation among ministerial department directors. In the current government there are only two women ministers, for the Ministry of Education, Youth and Sports and the Ministry of Informatics.

### 4.1.3.

At the Constitutional Court, 30.8% of the judges are women, while 64% of all judges in the Czech Republic are women. This continues to reflect the legacy of the Communist-era period in which the judiciary was a highly feminised profession primarily because it was considered more an administrative role than a decision-making one.

### 4.1.4.

**Minority women – and Romani women in particular – are almost completely excluded from mainstream politics.** During the entire post-Communist period, the Czech Republic has had a total of one Romani woman parliamentarian. No Romani women – and indeed no Roma at all – have had seats in parliament during the current or previous parliament, and there has been only one Romani parliamentarian at all (Monika Horakova, 1998-2002) since the Czechoslovak Federation dissolved in 1993. Roma are entirely absent from the national level administrations and few regional or local authorities have any Roma in either representative or administrative functions. Government policies begun in the late 1990s to provide “Roma advisors” at the local level very frequently staff these positions with non-Romani individuals. The Czech Republic compares extremely unfavourably in this regard with similarly situated post-Communist states such as Hungary and Slovakia, where levels of representation in both the administration and in representative, elected positions is steadily on the increase.

#### 4.1.5.

In reports, **Government representatives confuse women's political participation with the appointment of women to ministerial positions and do not understand that what is meant under CEDAW is women's participation as voters or as candidates for office** (e.g., Government representatives refer to the Law on Municipal Officials – No. 213/2002 Coll., where the principle of nondiscrimination is mentioned, without realising that this law is irrelevant to political participation). The text of the Czech Action Plan "Priorities and Procedures for the Enforcement of Equality of Women and Men" justifies this incorrect perception of the concept of political participation, stating the governmental task as follows: "To actively support via concrete measures the nomination of appropriate female candidates to positions in governmental offices and top positions at ministries and directly controlled institutions. To evaluate measures accepted for the equal participation of women and men in top positions and in working teams."

#### 4.1.6.

In reports reviewing the fulfilment of the Priorities and Procedures document, **the Government states that it monitors completion of this priority; however, no prominent developments in this area can be identified.** The standard argument is that people are appointed to positions in relevant departments according to their qualifications and not their gender, and that the selection is definitely not based upon discrimination against one or the other sex.

#### 4.1.7.

A twinning project with Sweden also recommended measures leading to increased women's participation in politics, and the Election Code was then amended. The first version of the amendment counted on introducing quotas for candidate lists during all kinds of elections; after the first round of comments from other ministries and relevant bodies, the amendment was then dramatically altered. Its final version included **only a 30% quota for elections to the Chamber of Deputies of the National Parliament and to the European Parliament, and no quota for either regional or local bodies.** Moreover, the code will not take effect until the period after the 2006 parliamentary election, which definitely represents a huge deficiency, as the majority of the current governmental political parties have not voluntarily applied any quota system to their candidate lists. The only exceptions to this are small political parties currently not sitting in the Chamber of Deputies, which did, however, try to exploit their explicit promotion of women's political participation during the recent pre-election campaign. This strategy was not successful in terms of getting them votes.

## 4.2. Recommendations for Government Action

#### 4.2.1.

As a matter of the highest urgency, the Government should undertake measures to **redress the extreme under-representation of Romani women** in representative and official administrative positions.

#### 4.2.2.

The Government should remedy the low representation of women in local and regional elected bodies by standardising the quota system for candidate's lists to be consistent at all levels with regard to women's representation.

#### 4.2.3.

The Government should remedy the exclusion of women from decision-making positions at local, regional, and national level by promoting hiring policies that positively discriminate and promote women's inclusion.

#### 4.2.4.

**The Government should develop and adopt an Election Law that provides for at least a 40% quota system** to be used in all elections, especially the upcoming local and regional elections.

#### 4.2.5.

**The Government should consult with countries that have adopted quota systems** in their election laws, analyze their approaches, and take their experience into account so as to make the new system effective.

#### 4.2.6.

Within its actions as developed in the Action Plan document (Priorities and Procedures for the Enforcement of Equality of Women and Men), **the Government should focus on planning and running its activities in a more coordinated way** – activities developed during one year should follow on in the preceding year, build upon previous experience, respond to events realized at national and international level by other bodies and institutions, monitor the success and relevance of all actions realised, etc.

## 5. Article 10: Education

### 5.1. Participation of women in studying science and technology

#### 5.1.1.

Although the Committee has been concerned with the fact that there is very low participation by women in studying science and technology, and that therefore women are missing from fast-developing areas that demand the relevant education and experience, the Czech government has neither realized nor supported any long- or short-term projects on this issue. It did not take advantage of the period during which a woman headed the Academy of Sciences of the Czech Republic. Similarly, it has not reacted to the fact that a National Contact Centre – Women and Science has been founded within the structures of the Sociological Institute of the Academy of Sciences focusing on women's participation in science, their work-life balance strategies with a special focus on their scientific work, etc. The

government also overlooks – even in its reports – the fact that some of the subsidiaries of big international institutions dealing with technology run campaigns in the Czech Republic motivating women and girls to study technological and technical subjects and then enter such structures in the Czech Republic. **The Government does not respond to such initiatives and does not focus on the development of women and girls’ technical knowledge at all.**

## 5.2. Segregation of Romani children in the Czech school system<sup>37</sup>

### 5.2.1.

ERRC research conducted on the situation of Roma in the Czech school system in the school year 1998-1999 documented extreme levels of racial segregation in Czech schools.<sup>38</sup> Intensive research was carried out in the Czech city of Ostrava. This revealed that, during the 1998-1999 school year:

- More than half of the student body of so-called „remedial special schools“ for the mentally disabled were Romani;
- More than half of the population of Romani children of the age of mandatory school attendance in Ostrava were being schooled in remedial special schools;
- Any given Romani child was more than 27 times more likely than a non-Romani child to be schooled in a remedial special school.
- Those Romani children not attending remedial schools were frequently in large urban ghetto schools with bad reputations;
- Over 16,000 non-Romani children in the city went to school every day without meeting a single Romani classmate – that is, they attended entirely segregated, all white schools.

Field research in a number of municipalities elsewhere in the Czech Republic revealed little or no significant difference between the situation in Ostrava and that of other urban or semi-urban areas. Follow-up research in 2003 and 2005 in the Czech Republic, undertaken by the ERRC with partners Association of Roma in Moravia and the League of Human Rights indicated no significant change in levels of placement of Romani children in separate, substandard classes or schools of various types.

A particularly pernicious role in the placement of Romani children in separate, substandard, and fundamentally degrading classrooms is played by the person of the educational psychologist. Although by law a parent’s consent is required in order to secure the placement of a child in any given school, in practice, a combination of (i) the school director of the substandard school; (ii) the school director of the placing school; and (iii) educational psychologists deploying tests which are not made public, exert intense pressure on Romani parents – often themselves systematically undereducated and therefore illiterate --

<sup>37</sup> For detail report on independent research in situation of segregation of Romani children in special education please see European Centre for Roma Rights, *Stigmata: Segregated Schooling of Roma in Central and Eastern Europe, a survey of patterns of segregated education of Roma in Bulgaria, the Czech Republic, Hungary, Romania, and Slovakia*, [http://www.errc.org/Thematic\\_index.php](http://www.errc.org/Thematic_index.php), 2.1.2006.

<sup>38</sup> See European Roma Rights Center, *A Special Remedy: Roma and Schools for the Mentally Handicapped in the Czech Republic*, Budapest, 1999.

to accept placement of their children in separate, substandard classes. As a result of regular reports of bullying by non-Romani children and in some cases also by teachers in mainstream schools (an issue as yet completely unaddressed by any government policy or action), many Romani parents capitulate to such pressure.

There are no effective procedures in place either to challenge such placement, or to review the placement of children in separate, substandard classes or schools.

As a result, the educational attainment of Romani women and girls is markedly lower than their non-Romani counterparts, and most leave school fundamentally ill-equipped for adult life in contemporary society, having experienced systemic degradation at the hands of the state school system for the better part of their first two decades of life.

The government has in some places acknowledged the problem, for example when it estimated that approximately 75% of Romani children attend special schools for mentally disabled children.<sup>39</sup> However, elsewhere and most frequently, the government has denied or severely downplayed the problem of racial segregation of Roma in Czech schooling, in some instances blaming all issues on Romani parents.<sup>40</sup>

### 5.2.2.

The New Schools Act (No. 531/2004 Coll.) was passed in 2004 and came into effect on 1 January 2005. The new Schools Act does not provide for the operation of so-called “special schools”, which are to be replaced by basic schools with specific educational programmes for different populations of children. There will still be schools for children with special educational needs; **the only difference is that they will not be called “special” schools.** The amendment may be desirable, but it does not guarantee that there will be a fundamental change in the chances of Romani children receiving an education that corresponds to their abilities. Without further measures explicitly designed to desegregate Czech schools, these measures will be ineffective.

### 5.2.3.

The Act has introduced a category of “pupils with special educational needs” – these are children with handicaps (mental, physical, visual or hearing handicap, defects of speech, a combination of handicaps, autism, or developmental defects of learning or behaviour) health disadvantages (health problems, long-term illness, or minor health defects leading to defects of

<sup>39</sup> Committee on the Elimination of Racial Discrimination, CERD/C/372/Add.1, 14 April, 2000. The Fourth Periodic Report of the Czech Republic submitted under Article 9 of the Convention on Elimination of Racial Discrimination 2000, Addendum Czech Republic, 26 November 1999, para. 134.

<sup>40</sup> See for example the Czech government’s Joint Inclusion Memorandum, a policy document elaborated jointly with the European Commission in 2004, at point 2.4.4.:

“The unsatisfactory situation in educating children of the Roma community members, who represent the majority of pupils from socio-culturally disadvantaging backgrounds, remains the permanent target of criticism from the inspection bodies of international human rights agreements, regular European Commission Reports as well as local and international non-governmental organisations monitoring the human rights compliance. They criticise especially the fact that a large proportion of them attend special schools, which de facto - although no longer de iure - limits their chances to achieve higher education levels and limits the possibility to achieve social integration. In vocational training these pupils are primarily directed towards obtaining qualification for manual professions. The percentage of Roma pupils attending special schools cannot be determined precisely and the existing qualified estimates cannot be generalised for the whole of the country. The main limitation disadvantaging Roma pupils in the education process in relation to the majority population is often the low social level of the Roma community, which undervalues the importance of education.”



learning or behaviour which must be considered when educating the child) and **children with a „social“ handicap, which is most applicable to Roma children, and indeed is the standard form of coding for “Roma” by the Czech government.**

#### 5.2.4.

It is not clear who is responsible for the identification of children with special educational needs. The Act assigned the task to Educational Counselling Centres and it is regulated by an implementing regulation.<sup>41</sup> The implementing regulation addresses children with social handicap only in one provision and not in connection with the Educational Counselling Centres. Neither the Act nor the implementing regulation state how to deal with children with social handicap. There is no obligation of the authorities to transfer the children with social handicap into regular schools or classes; the regulation only regulates the transfer of the children with health handicap.

#### 5.2.5.

Implementing regulation No. 73/2005 Coll. establishes elementary schools for pupils with special learning disabilities, elementary schools for pupils with special behavioural disabilities, practical elementary schools, and special elementary schools in which children from socio-culturally disadvantaged backgrounds might be educated. These schools have a lower pupil-teacher ratio, increased budgets, and teachers' assistants in the classrooms. The new Act is unclear on its use of the terms „health handicap“, „health disadvantage“ and „social disadvantage“, and the implementing regulations make this terminology even more unclear.

#### 5.2.6.

The alleged “radical reform” of the system of special education, therefore, has consisted in changing the designation of the special schools to that of elementary schools or „elementary special“ schools; such has been the governmental solution to the challenge of integrating children with special educational needs (and especially socially disadvantaged children) into regular education. In the new elementary (special) schools, children are still taught according to the old curriculum (used until now in special schools or special classes) and the children who have a right to education in the elementary schools without additional labelling are still placed into inferior schools of a second category or into special classes hidden inside “normal” elementary schools.

#### 5.2.7.

As a result of deeply entrenched hostility on the part of Czech educators to the idea of integrated education, as well as because of institutional cultures in Central Europe by which acts are undertaken only if set out in positive law, it is evident that **the systemic under-education of Roma – including Romani girls – in various forms of separate, segregated classes and schools will not be remedied unless positive law measures are adopted, specifying desegregation measures and elaborating the responsibilities of all relevant authorities in the desegregation process.**

#### 5.2.8.

In addition to these positive law desegregation measures, in the course of the desegregation process – once it is finally begun – Romani children and parents, as well as teachers and school administrators, will need targeted assistance. One need is regular attendance in nursery school. Many Romani families do not enrol their children in nursery school due to the cost, and because significant segments of the Romani community live in poverty or extreme poverty. As a result of recent policy amendments, the final year of nursery school is now free-of-charge. Other possible forms of targeted assistance are preparatory classes and teachers' assistants.

#### 5.2.9.

As of the passage of the new Schools Act No. 531/2004 Coll., the previously defined position of „Romani assistant“ has ceased to exist, as has the government policy introduced in the late 1990s of providing Romani assistants to classrooms. Instead the broader concept of “teachers' assistant” is referred to, and this concept is insufficiently regulated. Law No. 561/2004 Coll, School Act refers to this job title; Law No. 563/2004, on pedagogical workplaces, specifies the qualifications required for this job; and Decree No. 73/1005 Coll., on the education of children, pupils and students with special educational needs, also refers to this job title. The „Romani assistants“ previously played an important role in communication with Romani families, and their specific function vis-a-vis the Romani community is no longer legislated. School directors decide at their own discretion whether to establish a position of „teacher's assistant“ or not, and such assistants are funded from the regional budgets. There are not sufficient funds in the regional budgets for establishing a sufficient number of assistants to all classrooms that need them.

#### 5.2.10.

The Ministry of Education, Youth, and Sports has established preparatory classes for children with a sociocultural handicap. There were 137 of these classes in 2004 with a total of 1779 children, the majority of them Romani. Many Romani families are not aware of this possibility and in a number of instances have not yet been persuaded of the value of enrolling their children in such classes. This is a consequence of the insufficient work of the Education Counselling Centres and terrain social work with Roma families. Approximately 1/3 of the preliminary schools were established in special schools. Due to the fact that special schools are often situated in areas with a high number of Roma, Romani families on a number of occasions have sent their children to the preparatory classes in special schools. For the reasons noted above, Romani parents frequently consent to the enrolment of their children directly from these preparatory classes into remedial special schools or classes.

#### 5.2.11.

Finally, there is no government policy in the Czech Republic to investigate the issue of to what extent patriarchal traditions extant in some specific segments of the Romani community may pressure girls to abandon school once they reach puberty.

<sup>41</sup> Regulation nm. 72/2005 Coll. On providing counselling in schools and educational counselling facilities

### 5.2.12.

There is similarly little effort to provide adult education to previous victims of school segregation practices, or of under-schooling as a result of patriarchal community practice.

## 5.3. Recommendations for Government Action

### 5.3.1.

**The Government should support targeted campaigns promoting technical and technological studies among women and girls.** The Government should also support more women entering science and taking part in scientific research as their career.

### 5.3.2.

**The Government**, especially the Minister of Education (and the Ministry as an institution), **should take actions promoting gender-sensitive education** at all levels of the educational system, including universities, and especially those universities training future teachers.

### 5.3.3.

**Adopt – preferably through an Act of Parliament – a Law on School Desegregation, setting out in detail the roles of all relevant actors, detailing funding sources and setting clear timetables for full desegregation of Czech schools.**

### 5.3.4.

**Implement parallel measures to support all relevant stakeholders, including but not necessarily limited to Romani and non-Romani children, Romani and non-Romani parents, teachers and school administrators. Fund these measures to a level adequate to need.**

### 5.3.5.

**Adopt policy measures to address particular issues related to Romani women and girls in the school system, in particular high school abandonment rates of Romani girls due to patriarchal community practices.**

### 5.3.6.

**Adopt adult education measures to remedy entrenched legacies of school segregation and under-schooling resulting from patriarchal Romani community practice.**

## 6. Article 16: Marriage and Family

### 6.1. Child care

#### 6.1.1.

When it comes to the state's initiatives related to supporting parents caring for children – including single parents – **the Government should be reproached for its failure to adequately resolve the issue of child support obligations.** A bill was not adopted which would make the state responsible for covering alimony owed by a non-contributing parent and for recovering the amounts due afterwards from said parent – on the contrary, the bill was rejected. Women – who usually become single parents caring for children after divorce – face a lack of interest from politicians regarding their concerns, despite the high divorce rate in the Czech Republic and its high number of single-parent families. Politicians and public officials often say the social security and social care systems are adequate in the Czech Republic and that it is not necessary to develop them further or orient them towards more disadvantaged people, even though the group in this case is comprised of people of the same sex, which proves they are at a structural disadvantage.

#### 6.1.2.

According to a study published in 2004 entitled „Mapping the number and characteristics of children under 3 in institutions across Europe at risk of harm“ by the Centre for Forensics and Family Psychology, University of Birmingham (C. Hamilton-Giachritsis, K. Browne, R. Johnson, L. Leth, M. Ostergren et al: Final Report for a Daphne 2002 project), **the Czech Republic is the EU country with the highest number of children under 3 taken into state care, at 60 per 10,000** (compared with 1 per 10,000 in Great Britain and 0 per 10,000 in both Iceland and Slovenia). The Romani community is disproportionately affected by this practise, which reflects the need for a general modernisation of child protective services in the Czech Republic.

#### 6.1.3.

There are compelling indications that placement of children in state care is frequently the result of racial animus, in particular because social workers exercise a higher degree of suspicion of Romani parents than they do toward non-Romani parents. Although courts have in some cases reversed the decisions of social workers<sup>43</sup>, and despite regular campaigning on this issue by a number of Czech journalists, the government has not yet undertaken any significant or durable reform efforts in this area, nor even acknowledged that there may be a problem in this area.

<sup>43</sup> For example, the first person born in the Northern Moravian region of the Czech Republic, Ms Eva Sivaková, was taken immediately into state care on 4 January 2005. A court in Karvina finally ordered her return to the custody of her mother on 2 May 2005. She spent her first four and a half months of life in a state institution. The decision was not actually confirmed by Czech judicial authorities until January 2006.

## 6.2. Recommendations for Government Action

### 6.2.1.

The Government should introduce a mechanism whereby child support can be more easily pursued by the state on behalf of parents who are financially damaged by their non-paying partner's having abandoned this obligation, as well as a mechanism to ensure such damaged parents do not fall into poverty.

### 6.2.2.

The Government should immediately review its policy for taking children into state care with a view to reducing the extremely high numbers of children taken into state care, as well as eliminating all discriminatory practises in its institutionalisation procedures. A policy of increased, intensive social counselling for at-risk families with small children should be introduced to replace reliance on the institutionalisation of children as a one-size-fits-all solution to child endangerment.

## 7. Article 5: Fighting Stereotypes

### 7.1.1.

In its previous final recommendations to the Czech Republic the Committee recommended that it focus more closely on breaking down stereotypes related to women's and men's roles in society. Except for some not very well-structured (and usually not consistent) training for public officials, **the government has not focused on fighting stereotypes at all.** During the last four years, none of the current government members has initiated any discussion – e.g., in the media – on this issue. The ministries have published only a very few press releases, if any, on this issue. Only in 2006 did the issue of women's roles and positions become a more prominent issue – and it is necessary to underline that 2006 is an election year. The political parties, however, focus almost solely on women as mothers and, potentially, also on family policies. The issue of women's political participation remains very much out of their interest.

### 7.1.2.

The only example of a media presentation of a gender-sensitive project has been a series of short documentary films initiated by MLSA and screened by Czech Television. All of the documentaries discuss the motivation of fathers to participate in parental care, take parental leave, etc. This series is, however, has only been shown since May 2006.

## 7.2. Recommendations for Government Action

### 7.2.1.

**The Government should consider undertaking a campaign against gender stereotypes** – e.g., via launching a Day of Gender Equality and various actions accompanying it, such as research, broadcasting documentaries, information leaflets distributed to local labour offices, schools, NGOs, etc.

### 7.2.2.

**The Government should initiate discussion** – with employers, trade unions, and other social actors, as well as with the media and civil society – **of different measures allowing women and men to reconcile their personal, family, and work lives.**

### 7.2.3.

The Government **should give attention to shadow reports** and other forms of recommendations for action developed by representatives of the civil society and academia (for example to Shadow Report in the Area of Equal Opportunities of Women and Men, 2006 published by Open Society Fund Prague).

European Roma Rights Centre	League of Human Rights	Gender Studies
H-1386 Budapest 62	Bratislavská 31	Gorazdova 20
PO Box 906/93	602 00 Brno	120 00 Praha 2
Hungary	The Czech Republic	The Czech Republic
<b>Phone:</b> +36 1 4132200	Phone:+420 224 816 765	tel./fax: 224 915 666
<b>Fax:</b> +36 1 4132201	Fax: +420 224 961 092	
CEDAW contact:	CEDAW contact:	CEDAW contact:
Ostalinda Maya	Gwendolyn Albert	Alena Králíková
ostalinda@errc.org	galbert@llp.cz	alena.kralikova@genderstudies.cz
<a href="http://www.errc.org">http://www.errc.org</a>	<a href="http://www.llp.cz">http://www.llp.cz</a>	<a href="http://genderstudies.cz/">http://genderstudies.cz/</a>

**Appendix: Final Statement of the Public Defender of Rights in the Matter of Sterilisations Performed in Contravention of the Law and Proposed Remedial Measures**